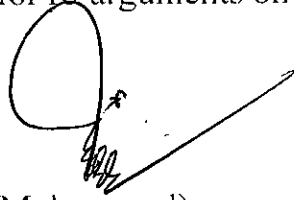


14.10.2022

Appellant in person present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for official respondents present.

Further legal assistance needed on certain points, therefore, to come up for re-arguments on 20.10.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

20th Oct., 2022

Counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Asstt. Advocate General for the respondents present.

Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 19.12.2022 before D.B.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

26th July 2022 Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Muhammad Ibrahim, Finance Officer for official respondents No. 1 to 3 and learned counsel for private respondent No. 4 present.

Learned counsel for the appellant seeks adjournment in order to properly assist the court on the next date. Adjourned. To come up for arguments on 11.10.2022 before the D.B.



(Salah-Ud-Din)
Member (J)

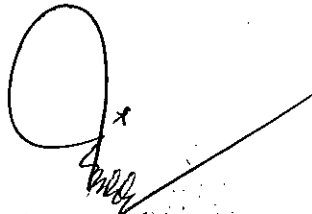


(Kalim Arshad Khan)
Chairman

11.10.2022

Appellant alongwith his counsel present. Mr. Hakeem Zada, Superintendent, Muhammad Ibrahim, Finance Officer and Mr. Albert David, Superintendent alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for official respondents No. 1 to 3 present. Learned counsel for private respondent No. 4 also present.

Arguments heard. To come up for order on 14.10.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

01.11.2021

Counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Hakim Zada Superintendent for official respondents present. Counsel for private respondents present.

The learned Member (Judicial) is on leave, therefore, case is adjourned. To come up for arguments on 03.02.2022 before D.B.


Chairman

03.02.2022

The Tribunal is non-functional, therefore, the case is adjourned to 13.05.2022 before D.B for the same.


Reader

13-5-22

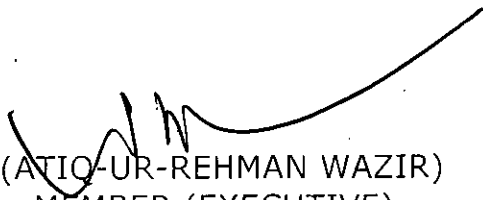
Draper PB not available the case is adjourned on 26-7-22

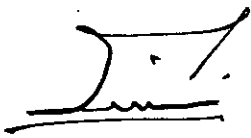
of Justice
Reader

30.08.2021

Mr. Noor Muhammad Khattak, Advocate, for the appellant present: Mr. Hakeem Zada, Superintendent alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents No. 1 to 3 present. Private respondent No. 4 in person present.

Learned counsel for the appellant requested for adjournment on the ground that he has not met preparation for arguments. Adjourned. To come up for arguments before the D.B on 20.09.2021. Member copy of the instant appeal is not available, therefore, learned counsel for the appellant is directed to provide the same on or before the date fixed.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

20.09.2021

Counsel for appellant present.

Muhammad Rasheed learned D.D.A for respondents present.

Former made a request for adjournment. Request is accorded. To come up for arguments on 01.11.2021 before D.B.



(Rozina Rehman)
Member (J)



Chairman

31.05.2021

Appellant alongwith his counsel Mr. Noor Muhammad Khattak, Advocate, present. Mr. Hakeem Zada, Superintendent alongwith Mr. Muhammad Rasheed, Deputy District Attorney for official respondents No. 1 to 3 and Mr. Muhammad Amin Ayub, Advocate, for private respondent No. 4 present.

Learned counsel for the appellant requested that as another appeal filed by the appellant regarding his premature retirement is also pending adjudication before the Tribunal in which next date of hearing is fixed as 26.07.2021, therefore, the appeal in hand may also be fixed on the said date. Request seems genuine, therefore, to come up for arguments before the D.B on 26.07.2021.



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

26.07.2021

Mr. Noor Muhammad Khattak, Advocate, for the appellant present. Mr. Hakeem Zada, Superintendent alongwith Mr. Kabirullah Khattak, Additional Advocate General for official respondents No. 1 to 3 present. Private respondent No. 4 in person present.

Learned counsel for the appellant requested for adjournment on the ground that he has not met preparation for arguments. Adjourned. To come up for arguments before the D.B on 30.08.2021.

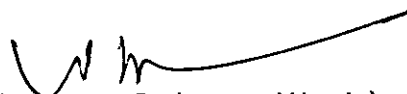

(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

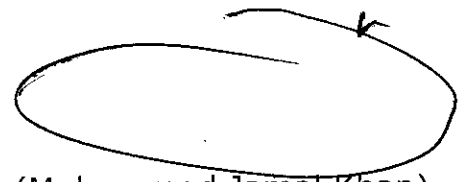

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

15.10.2020

Mr. Noor Muhammad Khattak, Advocate for appellant is present. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General alongwith Mr. Muhammad Ibrahim, Finance Officer for official respondent No. 3 and private respondent No. 4 are also present.

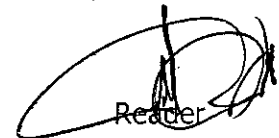
Learned counsel for appellant submitted that the appellant has been placed under retirement during the pendency of the instant appeal which order has been suspended by this august Service Tribunal since that very order directly and substantially pertains to the issue involved in the instant appeal, therefore, tackling both of them for arguments and decision simultaneously, is necessary for the ends of justice. Request is appropriate. Propriety demands to decide the appeals having identical issues at the same time. The appeal is adjourned to 09.12.2020 on which to come up for arguments before D.B.


(Atiq-ur-Rehman Wazir)
Member (Executive)


(Muhammad Jamal Khan)
Member (Judicial)

09.12.2020

Due to COVID-19, case is adjourned to 02.03.2021 for the same as before.


Reader

02.03.2021

Due to COVID-19, the case is adjourned for the same on 31.05.2021 before D.B


READER

28.07.2020

Mr. Noor Muhammad Khattak, Advocate, for appellant and appellant himself are, present. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Muhammad Ibrahim, Finance Officer on behalf of official respondents No. 2 & 3 and Mr. Muhammad Amin Ayub Advocate, on behalf of private respondent No. 4 and private respondent No. 4 himself, are also present.

Reply/comments of the remaining respondents have been submitted and placed on record. The record also reflect that other respondents have submitted their replies/comments which are already appended with record. Without making an order on the stay application it would be in the fitness of things and since the initial stages of proceedings are complete and appeal is rendered mature for arguments on the one hand and the direct nexuses of the issue agitated in the stay application with the main controversy in which the parties are locked, on the other, it is most appropriate as mandated by the law to submit it before the worthy Division Bench of this august Services Tribunal for arguments on main appeal as well as on stay application where the parities and their counsel shall appear on 12.08.2020.

(MUHAMMAD JAMAL KHAN)
MEMBER

12.08.2020

Due to summer vacations case to come up for the same on 15.10.2020 before D.B.

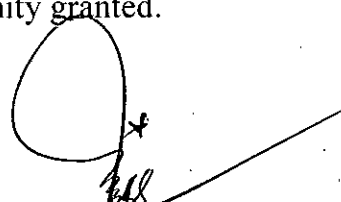
Reader

15.07.2020

Counsel for the appellant present. Addl: AG alongwith Mr. M. Ibrahim, Finance Officer for respondents present. Mr. Khalid Rehman, Advocate filed wakalatnama in favour of respondent No.4.

Written reply on behalf of respondents No. 3 has already ^{been} submitted. Written reply on behalf of respondents No. 1,2 and 4 not submitted. Learned AAG seeks time to contact the respondents No. 1 and 2 for submission of reply on main appeal as well as on application. Last opportunity granted.

Adjourned to 22.07.2020 before S.B.


(Mian Muhammad)
Member(E)

22.07.2020

Mr. Shahzullah, Advocate for appellant and appellant himself are present. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Muhammad Ibrahim, Finance Officer on behalf of official respondents No. 2 & 3 and Mr. Muhammad Amin Ayub Advocate, on behalf of private respondent No. 4 and private respondent No. 4 himself, are also present.

2. With the solitary exception of private respondent the remaining respondents have submitted their respective replies which are placed on file. Learned counsel for the private respondent is seeking time to submit reply due to procurement of certain copies of representations moved in the office concerned, time granted and reply be submitted by next day.

3. Arguments on stay application heard. File to come up for order on 28.07.2020 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER

18.06.2020

Counsel for the appellant and Addl: AG for respondents present. On the last date of hearing, the matter was adjourned on the strength of Reader Note. The office shall, therefore, issue notice to the respondents No. 1,2 and 4 for submission written reply/comments on 30.06.2020 before S.B.

Learned counsel for the appellant submitted an application for suspension of the operation of order dated 30.03.2020 till the disposal of the instant service appeal. Notice of this application be also issued for the date fixed.


MEMBER

30.06.2020

Appellant alongwith counsel present.


Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Muhammad Ibrahim Finance Officer for the respondents present.

Respondent No.4 submitted application for adjournment being detected positive with Covid-19.

Despite direction on the preceding date, written reply/comments were not submitted on behalf of remaining official respondents.

Learned AAG is directed to submit the same on or before 15.07.2020 before S.B.

Annexed with the main appeal, an application for suspension of the operation of order dated 30.03.2020 is annexed. Notice of this application has already been served upon respondents but learned AAG requested for adjournment; granted with direction to submit reply/comments, reply to application and arguments on the date fixed.


Member (J)

19.03.2020

Appellant in person present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Ibrahim, Finance Officer on behalf of official respondent No. 3 and private respondent No. 4 in person present. Representative of respondent No. 3 submitted para-wise comments on behalf of respondents No. 3. The same is placed on record. Neither written reply on behalf of respondents No. 1 & 2 submitted nor their representatives are present, therefore, notices be issued to them with the direction to direct the representative to attend the court and submit written reply on the next date positively. Private respondent No. 4 also seeks further time to furnish written reply/comments. Appellant has already submitted application for suspension of operation of impugned order dated 28.11.2018 and restraining the respondents from issuing his retirement order. Notice of the same be also issued to the respondents for the next date. To come up for reply and arguments on the said application as well as written reply/comments on behalf of respondents No. 1, 2 & 4 on 27.03.2020 before S.B.

MA
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

27.03.2020. Due to public holidays on the account of Covid-19, therefore the case is adjourned. To come up for the same on 18.06.2020 before SB.
F 21

Reader

12.02.2020


Appellant with counsel present. Preliminary arguments heard.

The appellant (Subedar) has filed the present service appeal against the notification dated 28.11.2018 on the ground that vide said notification dated 28.11.2018 private respondent No.4 has been promoted to the rank of SUBEDAR MAJOR despite being junior to the appellant while the appellant has been ignored. The appellant has also assailed the order dated 14.01.2020 through which it was conveyed that the departmental appeal filed by the appellant was filed being devoid of merit.

Submission made by learned counsel for the appellant need consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for reply/comments. To come up for written reply/comments on 05.03.2020 before S.B.

Appellant Deposited
Security & Process Fee

12/2/2020



Member

05.03.2020

Junior to counsel for the appellant and Addl. AG alongwith Muhammad Ibrahim, Finance Officer for respondent No. 3 present and submitted written reply. Respondent No. 4 in person present and requested for further time. Fresh notices be issued to respondents No. 1 & 2.

To come up for written reply/comments of respondents No. 1, 2 and 4 on 19.03.2020 before S.B.



Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 407/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/01/2020	<p>The appeal of Mr. Raham Zeb presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy ^{member} Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 16/01/2020</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12/02/2020</u>.</p> <p style="text-align: right;"><i>MA</i> MEMBER. CHAIRMAN</p>
2-		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 407 /2020

AMIR NAWAB

VS


**GOVT: OF KP
& OTHERS**

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	1 - 4
2.	Stay application	5 - 6
4.	Seniority list	A	7
5.	Service Rules	B	8 - 16
6.	Impugned Notification	C	17
7.	Charge report	D	18
8.	Memo Service Appeal before Federal Service Tribunal	E	19 - 22
9.	Judgment date 04-12-2019	F	23 - 33
10	Departmental Appeal	G	35
11	Appellate Order dtd 14-01-2020	H	36
12	Vakalatnama	37

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE
(CELL NO.0345-9383141)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

APPEAL NO. 407 / 2020

MR. AMIR NAWAB, Subedar (BPS-13),

Malakand Levies at Malakand.

APPELLANT

VERSUS

1- The Govt. of Khyber Pakhtunkhwa through Chief Secretary,

Civil Secretariat, Peshawar.

2- The Secretary Home, Khyber Pakhtunkhwa, Civil Secretariat,

Peshawar.

3- The Deputy Commissioner/ Commandant Malakand Levies,

District Malakand.

4- Mr. Farid Ullah, Subedar Major (BPS-16), Malakand Levies at

Malakand.

..... **RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED NOTIFICATION DATED
28.11.2018 WHEREBY JUNIOR TO THE APPELLANT
I.E. PRIVATE RESPONDENT NO. 4 HAS BEEN
PROMOTED TO THE RANK OF SUBEDAR MAJOR (BPS-
16) WHILE THE APPELLANT HAS BEEN IGNORED
INSPIE OF SENIORITY & FITNESS AND THE
AGAINST THE APPELLATE ORDER DATED 14-01-2020
WHEREBY DEPARTMENTAL APPEAL FILED IN LIGHT
OF FEDERAL SERVICE TRIBUNAL DECISION DATED
04-12-2019 OF THE APPELLANT HAS BEEN
REGRETTED ON NO GOOD GROUNDS**

PRAYER:

**That on acceptance of this appeal the impugned
Notification dated 28.11.2018 and the appellate
order dated 14-01-2020 may very kindly be set
aside and the respondents may be directed to
consider the appellant for promotion to the Rank
of Subedar Major (BPS-16) w.e.f. the date when
the private respondent No. 4 had been promoted
i.e. with effect from 28.11.2018 with all
consequential benefits including seniority. Any
other remedy which this august Tribunal deems fit
that may also be awarded in favor of the appellant.**

Filed to-day
16/01/2020
REGISTERED

Khyber Pakhtunkhwa
Service Tribunal
Dir. No. 507
Dated 16/01/2020

R/SHWETH:
ON FACTS:

1. That initially the appellant was appointed as Sepoy (BPS-5) in the respondent's Department on 1.4.1985. That later on the appellant was promoted to the Ranks of Lance Naik, Naik, Havaldar and Subedar (BPS-13) vide orders mentioned in the seniority list prepared for the employees of Malakand Levies. Copy of the Seniority list showing the dates of appointment and promotions is attached as **Annexure A.**
2. That the respondent Department Framed/formulated service structure for the Levies personnel vide Notification dated 4.2.2013 whereby the method for recruitment of Subedar Major (BPS-16) has been mentioned as 100% by promotion on the basis of seniority cum fitness from amongst Subedars (BPS-13). Copy of the Rules are attached as **annexure..... B.**
3. That according to the seniority list already attached as annexure-A the appellant being the senior most employee of the respondent Force has been Ranked at Serial No. 1 of the Seniority list. That appellant was quite hopeful for his promotion to the Rank of Subedar Major (BPS-16) due to his excellent record of service and having seniority cum fitness.
4. That astonishingly vide impugned Notification dated 28.11.2018 the private respondent who is at serial No.6 of the seniority list circulated for the employees of respondent Force has been promoted to the Rank of Subedar Major (BPS-16) while the appellant being the senior most employee of the respondent Force has been ignored without any reason and rhyme. Copies of impugned Notification and charge report are attached as **Annexure C & D.**
5. That feeling aggrieved from the impugned Notification dated 28.11.2018 the appellant preferred Departmental Appeal dated 19.12.2018 before the respondent No.2 which was not responded within the statutory period of 90 days, hence, the appellant filed service appeal no. 344 (P) CS/2019 before the Federal Service Tribunal Islamabad. Copy of Memo Service Appeal is attached as **Annexure E.**
6. That, Ministry of SAFRON has ceased existence due to the promulgation of the 25th Constitutional Amendment, hence, the appeal of the appellant along with other similar appeals were fixed for maintainability and after hearing both the Federal & Provincial Government the Federal Service Tribunal issued a consolidated judgment by declaring all the

pending Service Appeals as Department Appeal and remitted to the concerned office for deciding the same by giving opportunity of personal hearing to the appellants. Copy of the judgment is attached as Annexure **F.**

7. That, the appellant after receiving the attested copy of the judgment dated 04-12-2019 filed a Departmental Appeal before the respondent no. 2 in light of the judgment of Federal Service Tribunal Islamabad dated 04-12-2019 and after giving personal hearing to the appellant on 07-01-2020 the Departmental Appeal of the appellant was regretted on no good grounds vide appellate order dated 14-01-2020. Copy of Departmental Appeal and appellate order is attached as Annexure **G&H.**
8. That appellant feeling highly aggrieved and having no other remedy filed the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned Notification dated 28.11.2018 and appellate order dated 14-01-2020 issued by the respondents are against the law, facts, norms of natural justice & materials available on record hence not tenable and is liable to be set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned Notification dated 28.11.2018 and appellate order dated 14-01-2020 are based on malafide and arbitrary intentions of the respondents hence not tenable in the eye of law and liable to be set aside.
- D- That the impugned Notification dated 28.11.2018 and appellate order dated 14-01-2020 issued by the respondents is not in accordance to the seniority list issued by the respondents and as such the same is violative of Section-9 of the Civil servant Act, 1973 read with Rule 7 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer), Rules 1989.
- E- That, the act of the respondents by ignoring the appellant from promotion to the Rank Subedar Major (BPS-16) inspite of seniority and eligibility is squarely falls within the violation of Law and Rules.

- F-** That according to Article 38 (e) of the Constitution of Pakistan 1973 the State is bound to reduce disparity in the income and earnings of individuals including persons in the services of Federation.
- G-** That the impugned Notification dated 28.11.2018 and appellate order dated 14-01-2020 is based on discrimination and as such not tenable in the eye of Natural Justice.
- H-** That it is crystal clear from the final seniority list of Subedar that appellant is senior than the private respondent No.4 but inspite of that the appellant was ignored from promotion to the Rank of Subedar Major (BPS-16).
- I-** That according to the service Rules of the Federal levies Force dated 4.2.2013 the Post of Subedar Major (BPS-16) has to be fill up on the basis of seniority cum fitness from amongst senior most Subedar and as such the appellant being the senior most employee of the respondent Force is entitle to be promoted to the Rank of Subedar Major (BPS-16) but inspite of that the respondents promoted the private respondent No.4.
- J-** That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may very graciously be accepted as prayed for.

Dated: 16-01-2020

APPELLANT



AMEER NAWAB

THROUGH:



NOOR MOHAMMAD KHATTAK

& 

MUHAMMAD MAAZ MUBANI

ADVOCATES,

HIGH COURT, PESHAWAR

16/01/2020

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

APPEAL NO. _____/2020

AMIR NAWAB

VS

**GOVT: OF KP
& OTHERS**

**APPLICATION FOR SUSPENSION OF THE
OPERATION OF THE IMPUGNED ORDER DATED 28-
11-2018 AND RESTRAINING THE RESPONDENTS
NOT TO ISSUE RETIREMENT ORDER OF THE
APPELLANT IN LIGHT OF LEVIES SERVICE RULES
2013 TILL THE DISPOSAL OF THE ABOVE
MENTIONED APPEAL**

R.SHEWETH:

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august service Tribunal in which no date has been fixed so far.
- 2- That, the contents of the instant application may very kindly be consider as part and parcel of the main appeal.
- 3- That appellant filed the above mentioned appeal against the impugned order dated 28-11-2018 whereby out of turn promotion has been giving to the Private Respondent No. 4 and the appellant has completely been ignored from promotion to the post of Subedar Major (BPS-16).
- 4- That all the three ingredients necessary for the grant of stay is in favor of the appellant.
- 5- That, according to the Levies Service Rule of 2013 (Already attached with main appeal as annexure-B) the appellant is going to retire on 31-03-2020.
- 6- That the impugned order dated 28-11-2018 has been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore most humbly prayed that on acceptance of this application the operation of the impugned order dated 17.8.2018 may kindly be suspended **OR** the respondents may kindly be restrained from issuing retirement order of the appellant till the disposal of the above mentioned appeal.

Dated: 16-01-2020

APPELLANT



AMIR NAWAB

THROUGH:

NOOR MOHAMMAD KHATTAK

&

MUHAMMAD MAAZ MADNI

ADVOCATES, HIGH COURT, PESHAWAR 16/1/2020
(MOBILE NO. 0345-9383141)

7

ANNEXURE A

SENIORITY LIST OF MALAKAND LEVIES PERSONNEL DATE OF PROMOTION OF ALL RANKS RETIREMENT DATE

S/NO	Name	Date of Enlistment	Age	L/NAIK	NAIK	HAVILDAR	INSUB	SUBEDAR	S.M	ON SERVICE	ON AGE	ON TENURE
	Subedar Major--1	BPS-16										
	Subedars--15	BPS-13										
1	3429 Amir Nawab	1/4/1985	18-years	6/3/2003	15/6/2005	1/12/2002	18/1/2010	23/4/16		31/3/2020	31/3/2027	22/4/2021
2	3438 Muhammad Jallil	1/6/1985	18-years	19/5/2003	2/8/2005	2/12/2003	18/1/2010	3/5/2016		31/5/2020	31/5/2027	2/5/2021
3	3440 Armin Ullah	1/5/1985	18-years	1/6/2003	16/8/2005	1/12/2009	18/1/2010	26/8/2016		10/6/2020	10/6/2024	25/8/21
4	3443 Ghaffoor-Khan	11/6/1985	21-years	5/6/2003	16/8/2005	1/2/2009	18/1/2010	25/8/2016		31/7/2020	31/7/2025	25/8/21
5	3450 Faiz Hassan	1/8/1985	20-years	16/7/2003	19/10/05	1/2/2009	18/1/2010	26/8/2016		31/10/2020	31/10/2025	25/8/21
6	3463 Farid Ullah	1/1/1985	20-years	1/10/2003	20/12/05	21/2/2009	18/1/2010	26/8/2016		10/1/2020	10/1/2024	25/8/21
7	3465 Gul Muhammad Said	1/1/1985	19-years	1/10/2003	13/2/06	20/03/2009	12/3/2010	26/8/2016		10/1/2020	10/1/2024	25/8/21
8	3466 Raham Mehmood	1/1/1985	19.64	16/10/2003	13/2/06	26/3/2009	12/3/2010	26/8/2016		10/1/2020	2/4/2026	25/8/21
9	3467 Sher Zada	1/1/1985	3/4/1966	21/10/2003	17/2/06	3/4/2009	11/4/2010	26/8/2016		3/1/2020	31/1/2027	13/12/21
10	3473 Taj Malik	1/1/1986	19-years	5/1/2003	16/10/06	1/5/2009	19/5/2010	14/12/16		31/1/2032	28/2/2039	13/12/21
11	4456 Abdul Wahab	1/2/1997	19-years	1/12/2003	15/1/06	1/5/2009	17/2/010	14/12/16		31/1/2021	28/2/2023	18/10/22
12	3477 Bakht Zada	1/2/1986	1963	1/1/2004	5/12/07	1/6/2009	10/1/12/010	19/10/17		20/3/2021	1/10/2025	18/10/22
13	3480 Nsk Zamir	21/03/1986	2/6/20y	21/1/2004	5/5/2007	12/7/2009	16/1/12/010	19/10/17		30/4/2021	30/4/2026	18/10/22
14	3483 Sahib Rahim	1/5/1986	20-years	2/1/2004	2/5/07	12/5/2009	24/1/12/010	19/10/17				
15												
	REG/NO Naib Subedar--33	BPS-11										
1	3488 Muhammad-Biyar	1/10/1986	20-years	1/2/2004	6/9/2007	18/7/2009	13/3/2011			30/4/2019	20/6/2026	12/3/2018
2	3504 Mumtaz Hussain	13/1/1986	23-years	23/7/2004	20/5/08	18/1/2010	4/1/2011			12/1/12/019	12/1/12/023	3/4/12/018
3	3519 Mohad Zahir Shah	14/03/1987	18-years	1/3/2005	1/2/2009	18/1/10	10/2/2012			13/3/2020	13/3/2029	9/7/2019
4	3521 Khan Bahadar	14/03/1987	19.64	4/3/2005	1/2/2009	18/1/10	10/2/2012			13/3/2020	13/3/2024	9/2/2019
5	3548 Saeed Ullah	9/7/1987	22-years	14/5/05	12/2/2009	18/1/10	1/6/2012			8/6/2020	9/7/2025	10/6/2019
6	3550 Man Saleem Shah	1/8/1987		5/6/2005	21/2/09	18/1/10	2/17/2012					28/5/19

ATTESTED

Supintendent Malakand Levies Malakand
27.3.18

Handwritten signature

4

Answer

4

00 000

f

ed

ANNEXURE B (9)

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, FRIDAY, 15TH FEBRUARY, 2013.

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Peshawar the 4th February 2013

SERVICE RULES FOR FEDERAL LEVIES FORCE IN PATA

In exercise of the powers conferred by Section 9 of the PATA Levies Force Regulation, 2012 the Provincial Government of Khyber Pakhtunkhwa is pleased to make the following rules, namely:-

Short title and commencement. - (1) These rules may be called Provincially Administered Tribal Areas (PATA) Federal Levies Force Service (Amended) Rules, 2013.

(2) They shall come into force at once.

Definitions. - (1) In these Rules, unless the context otherwise require, the following expressions shall have the meaning hereby respectively assigned to them, namely:-

- (a) "Appointing Authority" means the appointing authority specified in rule-4;
- (b) "Commandant" means Commandant of the Force, who shall be the Deputy Commissioner in their respective jurisdiction;
- (c) "Deputy Commandant (Operation)" means an Assistant Commissioner or any officer of the District designated as such by the provincial government who shall be Deputy Commandant (Operation) of the Force in PATA, to exercise in his respective jurisdiction such powers and perform such functions as may be prescribed, and who shall be responsible to the Commandant for operational matters of the Force in PATA.
- (d) "Deputy Commandant (Administration)" means Deputy Commandant (Administration) of the Force, who shall be an officer of the provincial government or any officer of the District designated as such by the provincial government to exercise in his respective jurisdiction such powers and perform such functions as may be prescribed and who shall be responsible to the Commandant for administration and establishment matters of the Force in PATA.
- (e) "Government" means the Government of Khyber Pakhtunkhwa;
- (f) "Home Department" means Provincial Home & Tribal Affairs Department;
- (g) "Initial recruitment" means appointment made other than by promotion or by transfer;
- (h) "Schedule" means the Schedule appended to these rules;

ATTESTED

6. Training. - (1) All newly recruited personnel of the Force shall undergo six months pre-service training before being assigned duties of the rank for which they selected. Initially, the Appointing Authority shall arrange for appropriate training till a proper Levies Training Center is established.

(2) The pre-service training mentioned in sub-rule (1) may contain training on basic laws, investigation techniques, mob control, basic intelligence, arrest and detention procedure, jail duties, drill, weapons training, field craft, bomb disposal, counter assault, traffic control, raids, watch & ward etc. Proper training syllabus and modules shall be developed through mutual consultation with local law enforcing agencies by the Home Department.

7. Resignation. - No member of the Force shall resign before the expiry of the first three months of his recruitment or he shall deposit an amount equal to his three months pay in lieu of his three months essential service.

8. Seniority and promotion. - (1) Promotion shall be strictly on seniority cum fitness basis as well as on the required length of service as specified in Schedule-I.

(2) The service of a personnel by initial recruitment, promotion or transfer may be dispensed with or reverted if, in the opinion of the competent authority his work and conduct is not satisfactory during probation period or due to abolishment of posts, as the case may be.

Provided that in case of dispensing with their service or reversion the concerned authority shall record cogent reasons for such action in writing.

(3) The seniority list of the Force shall be maintained at district level. Commandant shall be responsible for maintaining the seniority list of the force and shall notify annually.

9. Transfer during service. - Every member of the service shall be liable to serve anywhere within PATA with the prior approval of the Commissioner Malakand Division.

10. Punishment. - After satisfying himself regarding punishable acts (as referred in Schedule-II) through a charge duly framed in writing, necessary punishments specified in Schedule-IV may be awarded by the respective authority.

Provided that punishment so awarded shall be duly incorporated in service rolls / service dossier accordingly.

11. Appeal. - If any personnel of the force is aggrieved by any order issued under these rules, within thirty days of communication to him of such order, may prefer an appeal to the competent authority.

Provided that no appeal shall lie against the punishments specified at S.No. (1) and (2) of Schedule-IV.

12. Awards and commendations. - (1) Force personnel may be given special award and commendation certificate for devotion to duty, demonstration of gallantry and such achievement in the performance of duty, in the manners as prescribed by the Commandant, and shall be made part of the service rolls / service dossier.

(2) Force personnel, if embraces martyrdom in the discharge of his duty, will be given proper Guard of Honour at the time of burial.

13. Service Record. - Proper service rolls / service dossiers of all Force Personnel shall be maintained in Levy Office of each district. Annual reports of all Havildars and Junior Commissioned Officers (JCOs) will also be maintained for the purpose of promotion.

14. Uniform. - The levy personal shall attire black shalwar qamees with brown chappli, white socks, black berotte cap and black belt whereas the JCOs will wear brown belt during duty hours.

15. Leave. - (1) Leave may be granted depending on the exigencies and at the discretion of the Commandant. All leave of ten days or above, will be considered as long leave and shall be granted on the recommendations of Subedar Major by the Commandant.

9
3
ACCEPTED

16

KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 15th FEBRUARY, 2013. 647

- 24. An Anomaly Committee duly constituted/notified vide Home and Tribal Affairs Department, Khyber Pakhtunkhwa Notification No. SO(Police)/HD/12-19/2012 dated 11th December, 2012 shall consider and remove such anomalies from time to time referred to the competent authority.
- 25. **Repeal.** Any rules, orders or instructions enforce in respect of the PATA Levies Force, immediately before the commencement of these rules shall stand repealed in so far as these rules, orders or instructions are inconsistent with the rules.

Secretary
Home & Tribal Affairs Department
Government of Khyber Pakhtunkhwa

ATTESTED



ATTESTED

(17)

013

SCHEDULE - II
(see Rule 10)

Grounds of penalty

The concerned authority may impose one or more penalties, where a personnel of the Force, in the opinion of the authority:-

- a. Is inefficient or has ceased to be efficient;
- b. Is guilty of misconduct, like unauthorized absence from leave, breach of order, disobedience, unruly behavior, passing on official secrets to unauthorized persons, etc;
- c. Is corrupt, or may reasonably be considered corrupt;
- d. Is guilty of any violation of duty;
- e. Losses, misplaces or causes harm to a weapon through negligence or lack of maintenance;
- f. Is insubordinate to his superiors;
- g. Is convicted of a criminal offence;
- h. Is guilty of cowardice, or abandons any picket, fortress, post or guard which is committed to his charge or which is his duty to defend;
- i. Is engaged in propagation of sectarian, parochial, anti-state views and controversies;
- j. Is engaged or is reasonably suspected of being engaged to excite, cause or conspire to cause or joins in any mutiny, or being present at any mutiny and does not use his utmost endeavor to suppress it;
- k. Attempts collective bargaining, conspiring or attempting to call off duty or take procession to press for the demands; or
- l. Is guilty of omission and commission under the law and rules.
- m. Deserts the service.
- n. Being a sentry, sleeps upon his post or quits it without being regularly relieved or without leave; or
- o. Without authority, leaves his commanding officer, or his post or party, to go in search of plunder; or
- p. Quits his guard, picket, party or patrol without being regularly relieved or without leave; or
- q. Uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or without authority breaks into any house or any other place for plunder; or plunders; destroys, or damages any property of any kind; or
- r. Internally causes or spreads a false alarm or rumour during action, or in post, camp, lines, or quarters.

Section

B

ATTESTED

12

SCHEDULE - IV
See Rule 10

S. #	Punishment	Subedar Major and Subedar	NaibSubedar or Havaldar	Nalk or Lance Nalk	Sepoy
1	Extra Drill not exceeding fifteen days fatigue or other duties.			Subedar	NaibSubedar
2	Confinement to quarter guard upto fifteen days.	Commandant	Deputy Commandant	Deputy Commandant	Subedar Major
3	Censure	-do-	-do-	-do-	-do-
4	Forfeiture of approved service upto two years	-do-	-do-	-do-	-do-
5	Stoppage of increment not exceeding one month's pay	-do-	-do-	-do-	-do-
6	Fine to any amount not exceeding on month's pay	-do-	-do-	-do-	-do-
7	Withholding of promotion for one year or less.	-do-	-do-	-do-	-do-
8	Reduction from substantive rank to a lower rank or reduction in pay.	-do-	-do-	-do-	-do-
9	Dismissal or removal from service or compulsory retirement.	-do-	-do-	-do-	-do-

Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar.

ATTESTED

ATTESTED

13



Government of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department
Dated Peshawar the 12th December, 2013.



NOTIFICATION

No. So (Levies) HD/FLW/1-1/2013/Vol.1: The competent authority has been pleased to approve further amendments in Schedule-I of Rule-4(2) and Schedule-III of Rules-17 under Para-10 of the Regulation for PATA Levies Force, 2012 & Rule-24 of the Provincially Administered Tribal Areas (PATA) Federal Levies Force Service (Amended) Rules, 2013 as under:-

Rule-4(2) Schedule-I

SCHEDULE-I
See Rule 4 (2)

A. **Uniformed Force**

S.No	Post/ Rank	Eligibility for promotion	Promotion Quota	Direct Quota	Qualification
1	Subedar Major (BS-15)	One year service as Subedr.	100%		
2	Subedar (BS-13)	One year service as Naib Subedar	100%		
3	Naib Subedar (BS-11)	One year service as Hawaldar	100%		
4	Hawaldar (BS-8)	One year service as Naik	100%		
5	Naik (BS-7)	One year service as Lance Naik	100%		
6	Lance Naik (BS-6)	Five years' service as Sepoy	100%		
7	Sepoy (BS-5)			100%	Middle pass preferably Matric
8	Head Armorer (BPS-5)	Five years' service as Assistant Armorer	100%		Middle pass preferably Matric with Certificate of Armorer
9	Assistant Armorer (BPS-1)			100%	Middle pass preferably Matric with Certificate of Armorer

Rule-17 (Retirement). (1) All uniform levy personnel shall retire as per Schedule-III or they may opt for retirement after completion of 25 years of regular service and no extension in service beyond retirement shall be granted.

SCHEDULE-III
Rule-17(Retirement)

S.No	Post/ Rank	Length of service / age for retirement.
1	Subedar Major (BS-15)	17 years' service or 60 years of age whichever is earlier.
2	Subedar (BS-13)	15 years' service or 60 years of age whichever earlier.
3	Naib Subedar (BS-11)	13 years' service or 60 years of age whichever earlier.
4	Hawaldar (BS-8)	11 years' service or 60 years of age whichever earlier.
5	Naik (BS-7)	9 years' service or 60 years of age whichever earlier.
6	Lance Naik (BS-6)	7 years' service or 60 years of age whichever earlier.
7	Sepoy (BS-5)	25 years' service or 60 years of age whichever earlier.

P.T.O

ATTESTED

12 DEC 2013



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

(14)

12



NOTIFICATION

~~NO. SO (LEVIES) HD / FMO / 1 - 1 / 2013 / Vol-1~~ In partial modification of this Department Notification of even No. dated 12.12.2013, the Competent Authority has been pleased to approve the recommendations of the Anomaly Committee of its meeting held on 28.02.2014 in the Ministry of SAFRON Islamabad, that amendments made in the PATA Levies Force (Amended) Service Rules 2013 shall be effective from 4th February, 2013.

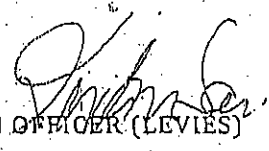
HOME SECRETARY

Endst. No. SO (Levies) HD / 1 - 1 / 2013 / Vol-1

Dated 17th March 2014

Copy forwarded to the:-

1. Secretary Ministry of SAFRON, Government of Pakistan, Islamabad.
2. AGPR, Khyber Pakhtunkhwa sub office Peshawar
3. Commissioner Malakand Division at Saidu Sharif Swat
4. The Deputy Commissioner Chitral, Upper Dir, Lower Dir, Malakand & Swat (They are directed to inform all the affectees through special messenger)
5. District Account Officer, Chitral, Upper Dir, Lower Dir, Malakand & Swat.
6. PS to Secretary to Governor Khyber Pakhtunkhwa
7. PS to Chief Secretary Khyber Pakhtunkhwa.
8. Section Officer (Budget) Home Department.
9. Section Officer (Courts) Home Department.
10. PS to Secretary Home, Khyber Pakhtunkhwa.


SECTION OFFICER (LEVIES)

ATTESTED


ATTESTED

15



Government of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department
Dated Peshawar the 28th July, 2015

NOTIFICATION

No. So (Levies) HD/FLW/1-1/2013/Not. 1 In sequel to this department partially modified Notification dated 12th December, 2013 and recommendations of the Anomaly Committee constituted under Rules-24 of the (PATA) Federal Levies Force Service (Amended) Rules, 2013 held on 29.01.2015 in the Ministry of SAFRON Islamabad, the Competent Authority has been pleased to make further amendments in Schedule-III of Rules-17 (1) of the rules ibid.

**SCHEDULE-III
Rule-17 (Retirement)**

"All uniform levy personnel shall retire as per Schedule-III of the rules ibid and no extension in service beyond retirement shall be granted" in any case.

The competent authority is further pleased to order that criteria for promotion to the post of Superintendent in Schedule-I of Section-B (Ministerial Staff) of Rule 4(2), the following new row may be added before S.No. 10, as decided by the anomaly committee:

**SCHEDULE-I
Rule 4 (2)**

S.No	Post/ Rank	Eligibility for promotion	Promotion Quota	Direct Quota	Qualification
10	Superintendent (BPS-16)	Five years experience as Assistant	100%		

Note: The above amendments in the (PATA) Federal Levies Force Service (Amended) Rules, 2013 shall be effective from 4th February, 2015

Secretary to Govt. of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Ends No. & dated of even

Copy of the above is forwarded for information and further necessary action to:-

1. The Secretary to Government of Pakistan, Ministry of SAFRON, Islamabad with reference to letters No.F.10 (5)-LK/2006 dated 16.02.2015 & 19.03.2015.
2. The Commissioner, Malakand Division, Malakand.
3. The D.C/Commandant Levies, Malakand, Swat, Dir Upper, Dir Lower & Chitral.
4. Agency/District Accounts Officer Malakand, Swat, Dir Upper, Dir Lower & Chitral.
5. PS to Chief Secretary, Khyber Pakhtunkhwa.
6. PS to A.C.S (FATA) Secretariat Peshawar.
7. Section Officer (Budget) Home Department.
8. PS to Secretary Home & Tribal Affairs Department.
9. The Manager Government Printing Press, Peshawar for publication in the official gazette Peshawar as an extra ordinary copy.

ATTESTED

[Signature]

[Handwritten mark]

ATTESTED

(16)



Government of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department

Dated Peshawar the 25.08.2016

NOTIFICATION

No. So (Levies) HD/FLW/1-1/2013/Vol. I. Consequent upon approval of the recommendations of the anomaly committee by Secretary SAFRON received vide his letter No. F.10(S)-LK/2006-Pt dated 04.08.2016, the competent authority has been pleased to partially modify the earlier Notifications of even number dated 12.12.2013 & 17.03.2014 with the following amendments in the levies service rules with immediate effect:-

1. The service of Federal Levy Force rendered before 2012 in case of PATA, Khyber Pakhtunkhwa/Settled Districts shall be counted as pensionable.
2. As Federal Government Employees, Civil Pension Rules will be applicable for all Federal Levy Force serving in PATA/Settled Districts of Khyber Pakhtunkhwa.
3. Condonation of over stay exceeding the prescribed length of service or age limit shall be allowed on case to case basis with due approval of the competent authority i.e. Secretary, SAFRON after full implications are worked out and sent to SAFRON and subsequent approval by Finance Division as the over stay was not the fault of the levy personnel.
4. The tenure of Rank and Service may be included in the Schedule-III of Service Rules for PATA/Settled Districts of Khyber Pakhtunkhwa respectively with the following amendments:-

SCHEDULE - III

Sl No	Post/Rank	For	To be read as
1	Subedar Major (BS-16)	37 years service or 60 years of age whichever is earlier.	37 years service or 03 years service as Subedar Major or 60 years of age whichever is earlier.
2	Subedar (BS-13)	35 years service or 60 years of age whichever is earlier.	35 years service or 05 years service as Subedar or 60 years of age whichever is earlier.
3	Naib Subedar (BS-11)	33 years service or 60 years of age whichever is earlier.	33 years service or 07 years service as Naib Subedar or 60 years of age whichever is earlier.

Secretary to Govt. of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Ends No. & dated of even.

Copy of the above is forwarded for information and further necessary action to:-

1. The Secretary to Government of Pakistan, Ministry of SAFRON, Islamabad with reference to letters No. F.10(S)-LK/2006/Pt dated 04.08.2016.
2. The Commissioner, Hazara, Malakand, Kohat & Bannu for information.
3. The D.C./Commandant Levies, Malakand, Dir Upper, Dir Lower, Swat, Chitral, Hangu, Kohat, Karak, Lakki Marwat & Torghar.
4. Agency / District Account Officer Malakand, Dir Upper, Dir Lower, Swat, Chitral, Hangu, Kohat, Karak, Lakki Marwat & Torghar.
5. Section Officer (Budget) Home Department.
6. Section Officer (Court) Home Department.
7. PS to Secretary Home & Tribal Affairs Department.
8. The Manager Government Printing Press, Peshawar for publication in the official gazette Peshawar as an Extra ordinary copy.

ATTESTED

ANNEXURE - C - (17)



GOVERNMENT OF KHYBER PAKHTUNKHWA HOME & TRIBAL AFFAIRS DEPARTMENT

Dated Peshawar 28 November, 2018

NOTIFICATION

No. SOPOLICE-ID/HD/7-1/018/: Consequent upon the recommendations of the Departmental Promotion Committee (DPC) in its meeting held on 26.10.2018, the competent authority (Home Secretary) is pleased to promote Subedar FaridUllah district Malakand Levies to the rank of Subedar Major and post him as Subedar Major Malakand Levies in District Malakand against the vacant post with immediate effect.

He shall remain on probation as per Rule-5 of the Federal Levies For (Amended) Rules, 2013.


**HOME SECRETARY
KHYBER PAKHTUNKHWA**

Ends No. & dated of even.

Copy of the above is forwarded for information and necessary action to:-

1. The Secretary SAFRON Government of Pakistan Islamabad.
2. The Commissioner, Malakand Division, Saidu Sharif, Swat.
3. The Deputy Commissioner / Commandant Levies, Malakand.
4. The District Account Officer, Malakand.
5. PS to Secretary Home & Tribal Affairs Department.
6. Officials.


SECTION OFFICER (POLICE-I)


ATTESTED

ATTESTED

BETTER COPY OF PAGE-17

**GOVERNMENT OF KHYBER PAKHTUNKWHA
HOME & TRIBAL AFFAIRS DEPARTMENT**

Dated Peshawar 28 November, 2018

NOTIFICATION

No. SO(POLICE-II)/HD/2-1/018/: Consequent upon the recommendations of the Departmental Promotion Committee (DPC) in its meeting held on 26.10.2018, the competent authority (Home Secretary) is pleased to promote Subedar Faridullah District Malakand Levies to the rank of Subedar Major and post him as Subedar Major Malakand Levies in District in District Malakand aginst the vacant post with immediate effect.

He shall remain on probation as per Rule-5 of the Federal Levies for (Amended) Rules, 2013.

**HOME SECRETARY
KHYBER PAKHTUNKWHA**

Endst: No. & dated of even.

Copy of the above is forwarded for information and necessary action to:-

1. The Secretary SAFRON Government of Pakistan Islamabad.
2. The Commissioner, Malakand Division, Saidu Sharif, Swat.
3. The Deputy Commissioner/Commandant Levies, Malakand.
4. The District Account Officer, Malakand.
5. PS to Secretary Home & Tribal Affairs Department.
6. Officials.



ATTACHED

ANNEXURE D (18)

CHARGE REPORT

In pursuance of the order of Secretary Home & TA's Department, Khyber Pakhtunkhwa, Peshawar issued vide No.SO(Police-II)HD/2-1/018/: dated 28-11-2018, I assumed the charge of the Post of Subedar Major, Malakand Levies today i.e. 28-11-2018(AN).



(FARID ULLAH)
SUBEDAR MAJOR, MALAKAND LEVIES

No. 1431-36 /SM Dated 28-11-2018
Copy forwarded to the:

1. DC/Commandant Malakand Levies for information, please.
2. Additional Deputy Commissioner, Malakand at Batkhela, for information, please.
3. Secretary to Commissioner, Malakand Division at Saidu Sharif, Swat, for information, please.
4. Section Officer (Police-II), Government of Khyber Pakhtunkhwa Home & TA's Department, Khyber Pakhtunkhwa, Peshawar for information with reference to his letter No. SO(Police-II)HD/2-1/018/: dated 28-11-2018, please.
5. District Accounts Officer, Malakand for information and necessary action, please.
6. Superintendent Malakand Levies, for information.



(FARID ULLAH)
SUBEDAR MAJOR, MALAKAND LEVIES



ATTESTED

MALAKAND LEVIES

19

ANNEXURE - E

BEFORE THE FEDERAL SERVICE TRIBUNAL, ISLAMABAD

APPEAL NO. 344 (P) 5/2019

Mr. Amir Nawab, Subedar (BPS-13),
Malakand Levies at Malakand.


..... APPELLANT

VERSUS

- 1- The Govt. of Pakistan through Secretary SAFRON, Pak Secretariat, Islamabad.
- 2- The Secretary Home and Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Deputy Commissioner/ Commandant Malakand Levies, District Malakand.
- 4- Mr. Farid Ullah, Subedar Major (BPS-16), Malakand Levies at Malakand.

..... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE FEDERAL SERVICE TRIBUNAL ACT, 1973 AGAINST THE IMPUGNED NOTIFICATION DATED 28.11.2018 WHEREBY JUNIOR TO THE APPELLANT I.E. PRIVATE RESPONDENT NO. 4 HAS BEEN PROMOTED TO THE RANK OF SUBEDAR MAJOR (BPS-16) WHILE THE APPELLANT HAS BEEN IGNORED INSPITE OF SENIORITY & FITNESS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS


ATTESTED

PRAYER:

That on acceptance of this appeal the impugned Notification dated 28.11.2018 may very kindly be set aside and the respondents may be directed to consider the appellant for promotion to the Rank of Subedar Major (BPS-16) w.e.f. the date when the private respondent No. 4 had been promoted i.e. with effect from 28.11.2018 with all consequential benefits including seniority. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHWETH:
ON FACTS:

1. That initially the appellant was appointed as Sepoy (BPS-5) in the respondent's Department on 1.4.1985. That later on the appellant was promoted to the Ranks of Lance Naik, Naik, Havaldar and Subedar (BPS-13) vide orders mentioned in the seniority list prepared for the employees of Malakand Levies. Copy of the Seniority list showing the dates of appointment and promotions is attached as **Annexure A.**
2. That the respondent Department Framed/formulated service structure for the Levies personnel vide Notification dated 4.2.2013 whereby the method for recruitment of Subedar Major (BPS-16) has been mentioned as 100% by promotion on the basis of seniority cum fitness from amongst Subedars (BPS-13). Copy of the Rules are attached as **annexure..... B.**
3. That according to the seniority list already attached as annexure-A the appellant being the senior most employee of the respondent Force has been Ranked at Serial No.1 of the Seniority list. That appellant was quite hopeful for his promotion to the Rank of Subedar Major (BPS-16) due to his excellent record of service and having seniority cum fitness.
4. That astonishingly vide impugned Notification dated 28.11.2018 the private respondent who is at serial No.6 of the seniority list circulated for the employees of respondent Force has been promoted to the Rank of Subedar Major (BPS-16) while the appellant being the senior most employee of the respondent Force has been ignored without any reason and rhyme. Copies of impugned Notification and charge report are attached as **Annexure C & D.**
5. That feeling aggrieved from the impugned Notification dated 28.11.2018 the appellant preferred Departmental Appeal dated 19.12.2018 before the respondent No.2 but till date no action has been taken by the respondent No.4 on the Departmental appeal of appellant. Copy of Departmental Appeal is attached as **Annexure E.**
6. That appellant feeling highly aggrieved and having no other remedy filed the instant appeal on the following grounds amongst the others.



19/12/2018

21

GROUND:

- A- That the impugned Notification dated 28.11.2018 issued by the respondents are against the law, facts, norms of natural justice & materials on record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned Notification dated 28.11.2018 are based on malafide and arbitrary intentions of the respondents hence not tenable in the eye of law and liable to be set aside.
- D- That the impugned Notification dated 28.11.2018 issued by the respondents is not in accordance to the seniority list issued by the respondents and as such the same is violative of section-9 of the Civil servant Act, 1973 read with Rule 7 of the Appointment, promotion and transfer Rules.
- E- That, the act of the respondents by ignoring the appellant from promotion to the Rank Subedar Major (BPS-16) inspite of seniority and eligibility is squarely falls within the violation of law and Rules.
- F- That according to Article 38 (e) of the Constitution of Pakistan 1973 state is bound to reduce disparity in the income and earnings of individuals including persons in the services of Federation.
- G- That the impugned Notification dated 28.11.2018 is based on discrimination and as such not tenable in the eye of natural justice.
- H- That it is crystal clear from the final seniority list of Subedar that appellant is senior than the private respondent No.4 but inspite of that the appellant was ignored from promotion to the Rank of Subedar Major (BPS-16).
- I- That according to the service Rules of the Federal levies Force dated 4.2.2013 the Post of Subedar Major (BPS-16) has to be fill up on the basis of seniority cum fitness from amongst senior most Subedar and as such the appellant being the senior most employee of the respondent Force is entitle to be promoted to the Rank of Subedar Major (BPS-16) but inspite of that the respondents promoted the private respondent No.4.

J- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may very graciously be accepted as prayed for.

Dated: 3-4-2019

APPELLANT



AMIR NAWAB

THROUGH:



NOOR MOHAMMAD KHATTAK

&



MUHAMMAD MAAZ MADNI
ADVOCATES



ATTESTED

23

Judgement Sheet
IN THE FEDERAL SERVICE TRIBUNAL, ISLAMABAD

BEFORE : Qazi Khalid Ali, Chairman and
: Raja Hasan Abbas, Member

ANNEXURE-F

S. No.	Appeals No.	Appellants	Date of Institution
1.	87(P)CS/2019	Mr. Sher Gulab, Ex-Sepoy, S/o Bacha Syed, R/o Shandai Morh, Shandai, P.O. Khar, Tehsil Khar, District Bajaur	18.01.2019
2.	88(P)CS/2019	Najeeb Ullah, Ex-Sepoy, S/o Shina R/o Bara Laghary, P.O. Tarkho, Tehsil Mamund, District Bajaur	18.01.2019
3.	89(P)CS/2019	Saleem, Ex-Sepoy, S/o Saeed ur Rehman, R/o Meena Mamund P.o. Tarkho, Tehsil Mamond, District Bajaur Agency	18.01.2019
4.	1118(P)CS/2017	Bacha Muhammad, Ex-Sepoy S/o Gul Muhammad, R/o Gang, P.O. Khar, Tehsil Khar, District Bajaur Agency.	18.10.2017
5.	1221(P)CS/2017	Muhammad Yar, Ex-Sepoy, R/o P.O. Raghagan, Odigerum, Salarzai, District Bajaur Agency.	06.12.2017
6.	862(P)CS/2018	Shireen, Havaladar, S/o Painsa Khan R/o Pashat P.O. Khar, Tehsil Salarzai, District Bajaur Agency.	15.05.2018
7.	85(P)CS/2019	Saur Khan, Ex-Sepoy, S/o Chamni Khan, R/o Mano Dherai, P.O. Gharday Tehsil Utman Khel, District Bajaur Agency.	18.01.2019
8.	86(P)CS/2019	Jamal ud Din, Ex-Sepoy, S/o Manawar, R/o Odigram, P.O. Raghgan, Tehsil Salarzai, District Bajaur Agency.	18.01.2019
9.	93(P)CS/2019	Ummer Rehman S/o Wali Muhammad, Ex-Khasadar, R/o Lagha Post Office Annayat Kalay, Tehsil Memond, District Bajaur Agency.	07.02.2019
10.	94(P)CS/2019	Mudeer Khan S/o Muhammad Noor, Ex-Sepoy R/o Lagha Post Office Annayat Kalay, Tehsil Memond, District Bajaur Agency.	07.02.2019
11.	95(P)CS/2019	Abdul Azim Jan, Ex-Khasadar, Reg # 3700, Bajour Levies	07.02.2019
12.	264(P)CS/2019	Hayyat Khan S/o Mian Gul Jan Ex-Khasadar, R/o Gaga Post Office Teshil Mamond, District Bajaur Agency.	21.03.2019
13.	1008(P)CS/2018	Baz Muhammad, Ex-Sepoy, S/o Sher Muhammad R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
14.	1010(P)CS/2018	Muhammad Khan, Ex-Sepoy, S/o Muhammad Ahaz, R/o Tarkho P.O. Khar, Tehsil Barang, Ex-Sepoy, District Bajaur Agency, District Bajaur Agency.	08.06.2018
15.	1011(P)CS/2018	Fos Khan, Ex-Sepoy, S/o Ahwan, R/o Kat Kot P.C. Tarkho Tehsil Barang, District Bajaur Agency.	08.06.2018
16.	1019(P)CS/2018	Abdul Rehinan, Ex-Sepoy, S/o Nadir Khan, R/o Bati Khar, District Bajaur Agency.	08.06.2018
17.	1022(P)CS/2018	Muhammad, Ex-Sepoy, S/o Murad Gul R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

ATTESTED

24

18.	1023(P)CS/2018	Wazir Khan, Ex-Sepoy, S/o Khial Gul, R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
19.	1024(P)CS/2018	Faiz Khan, Ex-Sepoy, S/o Shehzada R/o Mandal Tehsil Khar, District Bajaur Agency.	08.06.2018
20.	1025(P)CS/2018	Abdul Hadi, Ex-Sepoy, S/o Muhammad Hassan, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
21.	1026(P)CS/2018	Shoukatullah, Ex-Sepoy, S/o Musafar R/o Kat Kot, P.O. Tarkho, District Bajaur Agency.	08.06.2018
22.	1028(P)CS/2018	Sultan Muhammad, Ex-Sepoy, S/o Abdul Ameen, R/o Khar, Tehsil Salarzai, District Bajaur Agency.	08.06.2018
23.	1030(P)CS/2018	Sardar Alam, Ex-Sepoy, S/o Muhammad Alam, R/o Tarkho, P.O. Khar, Tehsil Khar, District Bajaur Agency.	08.06.2018
24.	1031(P)CS/2018	Noor Siin, Ex-Sepoy, S/o Saz Noor, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
25.	1032(P)CS/2018	Waheed Ullah, Ex-Sepoy, S/o Lal Khan, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
26.	1033(P)CS/2018	Qadir Khan, Ex-Sepoy, S/o Hazrat Gul R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
27.	1035(P)CS/2018	Niaz Muhammad, Ex-Sepoy, S/o Taj Muhammad Said, R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
28.	1036(P)CS/2018	Gul Bar Gul, Ex-Sepoy, S/o Alani Khail R/o Tarkho, P.O. Khar Tehsil Barang, District Bajaur Agency.	08.06.2018
29.	1037(P)CS/2018	Naccm Ex-Sepoy, S/o Behram Khan R/o Dabar Barsadin, P.O. Pasht Salarzai, District Bajaur Agency.	08.06.2018
30.	1038(P)CS/2018	Asmad Yar, Ex-Sepoy, S/o Syed Akbar Khan, R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
31.	1042(P)CS/2018	Noor Muhammad, Ex-Sepoy, S/o Niaz Muhammad, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
32.	1043(P)CS/2018	Naseeb Shah, Ex-Sepoy, S/o Gul Said, R/o Tarkho, P.O. Khar Tehsil Barang, District Bajaur Agency.	08.06.2018
33.	1044(P)CS/2018	Anwar Ex-Sepoy, S/o Chaman R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
34.	1088(P)CS/2018	Fazal Ameen, Ex-Sepoy, S/o Musharaf, R/o Sadiq Abad Paktak, P.O. Khar, District Bajaur Agency	10.07.2018
35.	1349(P)CS/2018	Siraj ud Din, Ex-Sepoy, s/o Malak Toor Khan R/o P.O. Khar, Tehsil Salarzai, District Bajaur Agency	16.08.2018
36.	1350(P)CS/2018	Muhammad Zada, Ex-Sepoy, S/o Lajbar, R/o Kher Kano, P.O. Khar, Tehsil Salarzai, District Bajaur Agency	16.08.2018
37.	1351(P)CS/2018	Gul Zada, Ex-Sepoy, S/o Pachay, R/o Hayat e Skandaro, P. O Karoee, Tehsil Utmankhel, District Bajaur Agency	16.08.2018
38.	377(P)CS/2019	Nisar Khan Ex-Sepoy, S/o Nadir Khan R/o	23.04.2019

ATTESTED

Munir
Registrar
Federal Service Tribunal
Islamabad

ATTESTED

		Mano Dheri, P.O. Gardai, Tehsil Utman Khel, merged District Bajaur Agency	
39.	781(P)CS/2017 with MP	Abdullah Jan, Naib Subedar, R/o Reedo Shah Gai, Yusuf Abad, P.O. Khar, Raado Shah Ghai, Tehsil Khar, District Bajaur Agency	26.05.2017
40.	742(P)CS/2018	Abdullah Jan, Ex-Naib Subedar, S/o Bakhtiar, Reedo Shah Gai, Yusuf Abad, P.O. Khar Raado Shah Ghai, Tehsil Khar, District Bajaur Agency	18.04.2018
41.	743(P)CS/2018	Munasib Khan, Ex-Naib Subedar, R/o Mir Afzal Labour Colony C/o Asar Khan S/o Mashoq Khan Quarter No. 10, District Mardan	18.04.2018
42.	744(P)CS/2018	Jan Alam, Ex-Naib Subedar, R/o Mir Afzal Labour Colony C/o Asar Khan S/o Mashoq Khan Quarter No. 10, District Mardan	18.04.2018
43.	1441(P)CS/2018	Rehmat Gul, Ex-Subedar Major, S/o Hameed Gul R/o P/o Khar Shah Narai, Tehsil Khar District Bajaur Agency	19.10.2018
44.	527(P)CS/2016	Nacem Khan, Ex-Sepoy, S/o Akbar Khan R/o Muharram Ghundai, P.O. Khar, Tehsil Khar, District Bajaur Agency	11.08.2016
45.	546(P)CS/2016	Mohammad Younas, Ex-Sepoy, R/o Mohallah Eid Gah, Tehsil Khar, District Bajaur Agency	26.08.2016
46.	857(P)CS/2018	Muhammad Shah, Ex-Sepoy, S/o Noor Zamin, R/o Ghar Shamoza Barkalay, P.o Qalangai Sher Batai, Tehsil Barang, District Bajaur Agency	11.05.2018
47.	858(P)CS/2018	Saeed Gul, Ex-Sepoy S/o Ajab Gul, R/o Sher Batai, P.O. Qalangai, Tehsil Barang, District Bajaur Agency	11.05.2018
48.	974(P)CS/2018	Muhammad, Ex-Sepoy, S/o Itbar Gul, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency	25.05.2018
49.	975(P)CS/2018	Abdul Haq, Ex-Sepoy, S/o Rofat Khan R/o Muslim Bagh, P.O. Inayat Kalay, District Bajaur Agency.	25.05.2018
50.	976(P)CS/2018	Waheed Ullah, Ex-Sepoy, S/o Gul Nazir, R/o Shah Saray P. O. Pashat Salarzai, District Bajaur Agency.	25.05.2018
51.	980(P)CS/2018	Muhammad Jamshed, Ex-Sepoy, S/o Muhammad Shah, R/o Garodi, P.O. Gazafi, District Bajaur Agency.	25.05.2018
52.	1409(P)CS/2018	M. Farooq, Ex-Sepoy, R/o Iadaee Tarkho, Tehsil Mamond, District Bajour Agency	28.09.2018
53.	1410(P)CS/2018	Shah Hussain, Ex-Sepoy, Reg # 5155, District Bajour Agency	28.09.2018
54.	1411(P)CS/2018	Ikram S/o Syed Ahmad, Ex-Sepoy, R/o Ladaee Tarkho, Tehsil Mamond District Bajour Agency	28.09.2018
55.	1412(P)CS/2018	Abdullah Ex-Sepoy, R/o Village Shanki, Tehsil Khar, District Bajour Agency	28.09.2018
56.	1431(P)CS/2018	Shahzad ur Rehman, Ex-Assistant/Reader, S/o Haji Rehmat Karim R/o Moh. Kass, P.O. Dir, Dit Town, Tehsil Dir, Upper Dir.	09.10.2018
57.	1503(P)CS/2018	Laiq Rehman, Ex-Levy Sepoy, R/o Village Kot Tehsil Batkhela District Malakand	14.11.2018
58.	877(P)CS/2017	Feroz S/o Muhammad Shah, Ex-Sepoy R/o Hilal Khail Charmang, Tehsil Nawagai,	21.06.2017

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

ATTESTED

25

OB

26

		Bajaur Agency.	
59.	878(P)CS/2017	Aziz Ullah S/o Gul Zaman, Sepoy, C/o Fazal Haq R/o Khar, Tehsil Khar, Bajaur Agency	21.06.2017
60.	879(P)CS/2017	Fazal Haq S/o Muhammad Hakeem, Sepoy, R/o Khar, Tehsil Khar Bajaur Agency.	21.06.2017
61.	880(P)CS/2017	Burhan S/o Gul Zaman, Sepoy, C/o Fazal Haq, R/o Khar, Tehsil Khar, Bajaur Agency.	21.06.2017
62.	263(P)CS/2019	Muhammad Ameen, Ex-Khasadar, R/o Gaga Post Office, Tehsil Mamond, District Bajaur Agency	21.03.2019
63.	91(P)CS/2019	Said Aziz, Sepoy, S/o Saeed Rahim Jan, R/o Aman Kot, District Tribal Bajaur.	04.02.2019
64.	178(P)CS/2019	Liaqat Khan, Ex-Sepoy, s/o Abdullah R/o Dag Qila P.O. Raghan Tehsil Salarzai, District Bajaur Agency	14.02.2019
65.	252(P)CS/2019	Habib Rasool, Ex-Sepoy, S/o Bahri Mulk, R/o Mohallah Boodha Baba Oach, Tehsil Adin Zai & District Dir Lower.	20.03.2019
66.	344(P)CS/2019 With MP	Amir Nawab, Subedar, Malakand Levies at Malakand.	03.04.2019
67.	831(P)CS/2019	Shaifullah, Sepoy, R/o Anayat Kalay, Kakah Tehsil Mamond, District Bajaur Agency	08.11.2019
68.	832(P)CS/2019	Khan Alam, Sepoy, R/o P.O. Anayat Kalay, Kakah, Tehsil Mamond District Bajour Agency.	08.11.2019
69.	833(P)CS/2019	Abdul Qayyum, Sepoy, R/o P.O. Anayat Kalay, Kakah, Tehsil Mamond District Bajour Agency.	08.11.2019
70.	834(P)CS/2019	Alam Zeer, Sepoy, R/o P.O. Anayat Kalay, Kakah, Tehsil Mamond District Bajour Agency.	08.11.2019
71.	835(P)CS/2019	Dilawar Khan, Sepoy, R/o P.O. Anayat Kalay, Kakah, Tehsil Mamond District Bajour Agency.	08.11.2019
72.	13(P)CS/2017	Muhammad Ayaz, Moharrir/Sepoy No.5010, Malakand Levies, District Malakand.	11.01.2017
73.	777(P)CS/2019	Sajjad Ali, Sepoy, S/o Ghulam Jan, Villag Kulala, P/o Gardai Tehsil utaman Khel, Tribal Bajaur District	

Misc. Petition for Implementation

74.	MP No.320/2018 1106(P)CS/2017	Nasir Khan S/o Fateh Mul Khan R/o Village Qazafi, Bandagai Marano Sha, Tehsil Utmankhel, District Bajaur Agency	16.02.2018
75.	MP No.321/2018 1116(P)CS/2017	Nawab Zada S/o Nadir Khan R/o Shiinkay Utmankhel, Tehsil Utankhel, District Bajaur Agency	16.02.2018
76.	MP No.2488/2018 591(P)CS/2015	Ismail S/o Imtiaz Jan, Ex-Sepoy, R/o Badi Samar P.O. Inayat Kaly, District Bajaur Agency	28.12.2018
77.	MP No.2487/2018 38(P)CS/2016	Fazal Malik Ex-Sepoy S/o Ghulam Rabani, R/o Kaga Landi, Tehsil Mamond District Bajaur Agency	28.12.2018
78.	MP No.2098/2018 19(P)CS/2014	Hameed Ullah S/o Muzanmil Khan Ex-Sepoy, R/o Alizo Dag, Tehsil Khar, District Bajaur Agency	13.11.2018
79.	MP No.2099/2018	Muhabat Khan, Ex-Sepoy, S/o Rehmat	14.11.2018

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

ATTESTED

	348(P)CS/2014	Khan R/o Qillah Ali Jan Tehsil Khar, District Bajaur Agency	
80.	MP No.342/2018 1117(P)CS/2017	Fazal i Wahid r/o Khar, Tehsil Nawagai, District Bajaur Agency	21.02.2018
81.	MP No.343/2018 1119(P)CS/2017	Bacha Reahim S/o Abdul Saeed R/o Madil Dianga, P.O. Khar, District Bajaur Agency	21.02.2018
82.	MP No.344/2018 1120(P)CS/2017	Mansoor Ahmed S/o Said Muneer R/o Barani Kandaro P.O. Khar Tehsil Khar, District Bajaur Agency	21.02.2018
83.	MP No.345/2018 1121(P)CS/2017	Nisar Khan S/o Khan Bachai R/o Salarzai, Koi, P.O. Raghan Tehsil Khar, District Bajaur Agency	21.02.2018
84.	MP No.346/2018 1122(P)CS/2017	Bacha Rehman s/o Muhammad Yousaf R/o Mandal Dianga, P.O Khar, Tehsil Khar, District Bajaur Agency	21.02.2018
85.	MP No.347/2018 1123(P)CS/2017	Amin Ullah S/o Din Muhammad R/o Momand, Tehsil Salarzai District Bajaur Agency	21.02.2018
86.	MP No.348/2018 1125(P)CS/2017	Gulab Khan S/o Razi Khan, R/o Village Bajigrm, Tehsil Salarzai, District Bajaur Agency	21.02.2018
87.	MP No.349/2018 1126(P)CS/2017	Alif Khan S/o Sharif Khan R/o Village Siya Baran, Tehsil Barang, District Bajaur Agency	21.02.2018
88.	MP No.350/2018 1127(P)CS/2017	Yar Muhammad S/o Ali Muhammad R/o Village Haryan Kot, Tehsil Barang, District Bajaur Agency	21.02.2018
89.	MP No.351/2018 1128(P)CS/2017	Faiz Ullah S/o Zubair Khan R/o Village Khar, Tehsil Khar, District Bajaur Agency	21.02.2018
90.	MP No.352/2018 1129(P)CS/2017	Amir Badshah S/o Shah Zad Mir, R/o Village Takht Barang, Tehsil Khar, District Bajaur Agency	21.02.2018
91.	MP No.353/2018 1130(P)CS/2017	Ahdul Hakim S/o Ahmed Jan R/o Village Mano Dherai, Tehsil Utmankhel, District Bajaur Agency	21.02.2018
92.	MP No.354/2018 1131(P)CS/2017	Muhammad Zada S/o Ali Muhammad R/o Village Shinko, Tehsil Utmankhel, District Bajaur Agency	21.02.2018
93.	MP No.355/2018 1132(P)CS/2017	Ahmad Yousaf S/o Abdul Wakeel Khan R/o P.O. Khar, Tehsil Khar, District Bajaur Agency	21.02.2018
94.	MP No.356/2018 1133(P)CS/2017	Rizwan Ullah S/o Gul Nabi, R/o Ali Zo Dag, Tehsil Khar, District Bajaur Agency	21.02.2018
95.	MP No.357/2018 1134(P)CS/2017	Abdul Wakeel S/o Sultan Muhammad R/o Ali Zo, P.O. & Tehsil Khar, District Bajaur Agency	21.02.2018
96.	MP No.358/2018 1135(P)CS/2017	Israr Khan S/o Nowsherwan R/o Shenky, Ali Zai, Tehsil Khar, District Bajaur Agency	21.02.2018
97.	MP No.359/2018 1136(P)CS/2017	Asmat Khan S/o Bakht Zareen R/o Sara Cheena Tehsil Khar, District Bajaur Agency	21.02.2018
98.	MP No.2144/2016 340(P)CS/2014	Shoaib S/o Gulab Karim, Ex-Sepoy, R/o Kot kay Tehsil Salarzai, District Bajaur Agency	04.11.2016
99.	MP No.352/2017 211(P)CS/2014	Ghulam Qadir S/o Kalam Khan, Ex-Sepoy, R/o Atkay P.O. Raghan, Tehsil Salarzai, District Bajaur Agency	10.02.2017
100.	MP No.353/2017 301(P)CS/2014	Anwar Zeh S/o Said Karim, Ex-Sepoy, R/o Qamar Dag, Tehsil Khar, District Bajaur Agency	17.11.2014

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

ATTESTED

27

OB

28

101.	<u>MP No.354/2017</u> 312(P)CS/2014	Sahib Zada S/o Madali Jan, Ex-Sepoy, R/o Islam Dahri, Utman Khil, District Bajaur Agency	10.02.2017
102.	<u>MP No.1017/2017</u> 584(P)CS/2015	Hussain Badshah, Ex-Sepoy, S/o Amir Nawab, R/o Dag Qila P.O Khar, District Bajaur Agency.	17.04.2017
103.	<u>MP No.935/2017</u> 635(P)CS/2015	Hafiz ur Rehman, Ex-Sepoy, S/o Shams ur Rehman R/o Khar P.O. Khar, District Bajaur Agency.	06.04.2017
104.	<u>MP No.936/2017</u> 10(P)CS/2016	Firdoos Khan, Ex-Sepoy, S/o Zar Muhammad, R/o Guman Kot, P.O. Khar, Tehsil Barang, District Bajaur Agency.	06.04.2017
105.	<u>MP No.937/2017</u> 14(P)CS/2016	Muhammad Sarwar Khan, Ex-Sepoy, S/o Naik Muhamamd R/o Rod Soli Khar Tehsil Salarzai, District Bajaur Agency.	06.04.2017
106.	<u>MP No.934/2017</u> 24(P)CS/2016	Suleman Khan, Ex-Sepoy, S/o Muhammad Gul R/o Skandaro Tehsil Utman Khail District Bajaur Agency.	06.04.2017
107.	<u>MP No.938/2017</u> 27(P)CS/2016	Sarwar Ex-Sepoy, S/o Ameer Gul, R/o Qumber P.O. Khar, Teshil Barang, District Bajaur Agency	06.04.2017
108.	<u>MP No.2118/2018</u> 27(P)CS/2014	Nawab Khan S/o Gul Qayum Ex-Sepoy, R/o Nogay Tehsil Khar, District Bajaur Agency	19.11.2018

Review Petitions.

109.	<u>RP No.78/2019</u> 711(P)CS/2017	Asghar Khan, Sepoy, Tehsil Khar, District Bajaur Agency.	19.06.2019
110.	<u>RP No.84/2019</u> 720(P)CS/2017	Umer Ayub, Sepoy, Tehsil Khar, District Bajaur Agency.	28.06.2019
111.	<u>RP No.85/2019</u> 721(P)CS/2017	Imran, Sepoy, Tehsil Khar, District Bajaur Agency.	28.06.2019
112.	<u>RP No.86/2019</u> 722(P)CS/2017	Nowshad, Sepoy, Tehsil Khar, District Bajaur Agency.	28.06.2019
113.	<u>RP No.87/2019</u> 723(P)CS/2017	Noor Zada, Sepoy, Tehsil Chum, Khar, District Bajaur Agency.	28.06.2019
114.	<u>RP No.88/2019</u> 724(P)CS/2017	Ghulam Younis, Sepoy, Sadiqabad, Tehsil Khar, District Bajaur Agency.	28.06.2019
115.	<u>RP No.89/2019</u> 725(P)CS/2017	Najeeb Ullah, P.O. Sepoy Annayat Kalay, Katkoot Tehsil Momand, Bajour Agency.	28.06.2019
116.	<u>RP No.90/2019</u> 726(P)CS/2017	Shams-ur Rehman, Sepoy Annayat Kalay, Katkoot Tehsil Momand, Bajour Agency.	28.06.2019
117.	<u>RP No.91/2019</u> 760(P)CS/2017	Saeed Habib Jan, R. No. 4322, Sepoy, Bajaur levies, Bajaur Agency Khar	28.06.2019
118.	<u>RP No.92/2019</u> 761(P)CS/2017	Abdullah R. No. 3413, Sepoy, Bajaur levies, Bajaur Agency Khar	28.06.2019
119.	<u>RP No.93/2019</u> 762(P)CS/2017	Mozamin, R. No. 4384, Sepoy, Bajaur levies, Bajaur Agency Khar	28.06.2019
120.	<u>RP No.94/2019</u> 763(P)CS/2017	Saeed Ullah, R. No. 4279, Sepoy, Bajaur levies, Bajaur Agency Khar	28.06.2019
121.	<u>RP No.95/2019</u> 764(P)CS/2017	Imran, R. No. 4769, Sepoy, Bajaur levies, Bajaur Agency Khar	28.06.2019
122.	<u>RP No.96/2019</u> 766(P)CS/2017	M. Ayub, R. No. 5806, Sepoy, Bajaur levies, Bajaur Agency Khar	28.06.2019
123.	<u>RP No.97/2019</u> 767(P)CS/2017	Faizullah R. No. 4366. Sepoy, Bajaur levies, Bajaur Agency Khar	28.06.2019
124.	<u>RP No.98/2019</u> 768(P)CS/2017	Imran Ullah, R. No. 4775, Sepoy, Bajaur levies, Bajaur Agency Khar	28.06.2019

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

29

125.	<u>RP No.99/2019</u> <u>776(P)CS/2017</u>	Tilia Muhammad, R. No. 4508, Sepoy, Bajaur levies, Bajaur Agency Khar	28.06.2019
126.	<u>RP No.100/2019</u> <u>777(P)CS/2017</u>	Abdul Rahim, R. No. 5883, Sepoy, Bajaur levies, Bajaur Agency Khar, R/o P.O. Loe Same Sharif Khan Tehsil Nawagai, District Bajaur Agency.	28.06.2019
127.	<u>RP No.101/2019</u> <u>778(P)CS/2017</u>	Rohul Amin, R. No.4293, Sepoy, Bajaur levies, Bajaur Agency Khar, R/o P.O. Loe Same Sharif Khan Tehsil Nawagai, District Bajaur Agency.	28.06.2019

Date of Hearing	:	28.11.2019
Date of Judgement	:	04.12.2019

-:VS:-

- RESPONDENTS
1. The Secretary, SAFRON, Islamabad.
 2. The Additional Chief Secretary, FATA Civil Secretariat (FATA), Warsak Road, Peshawar.
 3. The Political Agent/Commandant/Deputy Commissioner Bajaur Levies, District Bajaur at Khar.
 4. Mr. Fareed Ullah, Subedar Major (BS-16), Malakand Levies at Malakand.
 5. Mr. Muhammad Hussain, N/Subedar, Reg. No.3164, posted in the office of Political agent/commandant/Deputy Commissioner, Bajaur Levies, District Bajaur at Khar.

PRESENT : Mr. Misbahullah Khan, Rana Samreen Akhtar, Noor Muhammad Khattak, Sardar Saleem Akhtar and Aamad Nasir Kundi, Advocates for the Appellants.
Ch. Ishtiaq Meherban, Deputy Attorney General for the Federation, Mr. Siraj Haider, Legal Coordinator, M/o SAFRON, Mr. Nisar Khan, Asstt. Accounts Officer, District Accounts Office, Malakand and Mr. Sajjad Ahmad, Litigation Clerk, Deputy Commissioner's Office, Bajaur as DRs and Mian Gulzar Hussain, Advocate for Respondent No.4

JUDGEMENT

RAJA HASAN ABBAS, MEMBER:-

These appeals and petitions can be categorized into appeals, implementation petitions and review petitions.

2. Appellants are ex-employees of Federal Levies Force. The Competent authority imposed major penalty of dismissal from service in most of the cases on charge of misconduct, whereas in some other cases they were retired. Aggrieved by these orders instant appeals were filed before Federal Service Tribunal which are pending decision. Notices were issued to the respondents i.e. M/o SAFRON, FATA Secretariat through Additional Chief Secretary, FATA and the concerned Political Agent/Commandant.

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

ATTESTED

Comments/objections were received partially and in most of the cases notices were being issued for submission of the same. In the meantime, Federal Government through 25th Constitutional Amendment Act passed in May, 2018 paved the way for merger of FATA in the province of Khyber Pakhtunkhwa. As a result thereof Government of KPK issued Ordinance I of 2019 (later passed as an Act), in order to allow Federal Levies Force to continue their functions and to regulate and maintain them under the administrative control of Government of KPK. The force was renamed as Khyber Pakhtunkhwa Levies Force under Section 3 of the Act, comprising the Director General, the Deputy Director General, Commandant and all existing strength of members of the Levies Force, working in the merged Districts and Sub-divisions. Above mentioned Officers would be the Officers from Police. Section 9 of the Act provided for absorption of the members of Federal Levies in the Police. Section 9 (2) stipulates that "until their absorption in the police, the members of the Levies Force shall be governed by their existing terms and conditions of service under Federal Levies Force (Service) Rules, 2012.

3. It is important to refer to a letter from M/o SAFRON dated 24th April, 2019 addressed to Secretary Home & Tribal Area Department, Government of KPK on the subject pertaining to service matters regarding Levies/Khassadars, admitted in Federal Service Tribunal, Islamabad. It is imperative to reproduce para 2-3 of the letter:-

"2. It is stated that consequent to the 25th Constitutional Amendment, the erstwhile PATA and FATA have been merged into the province of Khyber Pakhtunkhwa. Furthermore, on 12th March, 2019 the Government of Khyber Pakhtunkhwa has promulgated two Ordinances whereby the Federal Levy Force and Khassadar Force, stand provincialized. We had already written to the concerned Registrars of Courts and Service Tribunals to delete the name of Secretary, SAFRON from the array of respondents.

3. It is requested that these alongwith future appeals in connection to the Federal Levy Force and Khassadar Force, may now be addressed at your end while ensuring that reports/comments are submitted to Honorable Federal Service Tribunal, Islamabad on the scheduled date of hearings.

ATTESTED
[Signature]

Registrar
Federal Service Tribunal
Islamabad

[Signature]
ATTESTED

Another Memorandum from M/o SAFRON dated 18th March, 2019 addressed to Chief Secretary, KPK, Advocate General, KPK and Additional Chief Secretary, Merged Areas Secretariat states as under:-

"Now, therefore all the administrative, legal and ancillary matters, including service appeals, promotions and litigation in respect of both the forces i.e. Levies Force and Khasadar Force have been transferred to the Government of Khyber Pakhtunkhwa and its relevant forums from 12th March, 2019, the date of the issuance of above said Ordinance.

It is clarified that Ministry of States and Frontier Regions (SAFRON) has ceased to be the controlling authority in respect of Levies Force and Khasadar Force working in erstwhile FATA & PATA. All concerned commandants and others Forums may kindly be informed accordingly."

4. It was in this back drop that we had issued Notices to the learned Attorney General for Pakistan in accordance with Orders 27 Rule 1 of CPC to assist the Tribunal with regard to the point of jurisdiction as well s 25th Constitutional Amendment including interpretation of Levies Amendment Rules, 2013. After hearing the learned Deputy Attorney General and counsels of the appellants on 30.07.2019 a detailed order was passed. Relevant portion is reproduced:-

"7. We have carefully considered the arguments. Notwithstanding, the submissions made by the learned counsels, fact of the matter is that Government of Pakistan Ministry of States and Frontier region has made a formal request for their deletion from the list of the respondents in all these appeals with a further request that these matters may now be addressed to Secretary, Home and Tribal Areas Department, Government of Khyber Pakhtunkhwa.

8. By operation of the Ordinance supra and 25th Constitutional Amendment, employees of the Federal Levies and Khassadar Force have become provincial Government employees. In several implementation petitions, which are pending at the moment before the Tribunal, provincial Home and Tribal Area Department have been issued notices of appearance, however, they have shown very lukewarm response. This is despite the fact that notices were served through Chief Secretary, KPK. We are cognizant of the fact that Constitutional and legal provisions allow continuation of proceedings before the Tribunal, however, we are concerned

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

ATTESTED

about the practical aspects of the issue. Since the petitioners have become provincial Government employees, no proceedings can move unless the respondent Provincial Government discharges its legal responsibilities.

9. It is therefore, imperative and prudent to direct Secretary Ministry of States and Frontier Region to depute an officer not below the rank of J.S to appear and assist the Tribunal in the matter.

10. Chief Secretary KPK Government is required to direct Secretary Home and Tribal Areas Department to depute an officer not below the rank of Additional Secretary (BS-19) to appear in the pending proceedings before the Tribunal.

11. Advocate General KPK is directed to depute a law officer to appear and assist the Tribunal in the matter on the next date".

5. Since then Provincial Government of KPK has been represented twice by learned Assistant Advocate General. He was not present today nor on 18.11.2019. We have not received any written statement on behalf of Government of KPK since 30.07.2019 despite clear direction vide order dated 18.11.2019.

6. Today we have heard learned Counsels of the appellants who are also present in large number. Learned Counsels of the appellants stated that the appellants are poor low paid employees. Since their dismissal in 2007-2008, they have been running from pillar to post for getting justice. The constitutional amendment and subsequent legislation has further complicated matters for them. However, the Tribunal is still vested with the jurisdiction as already determined vide order dated 30.07.2019 and the appeals may be decided on merits of each case.

7. We are conscious of the fact that the appellants are facing hardship on account of prolonged judicial proceedings. It is however, more dismaying that the respective provincial authorities are not paying due attention to these matters, pending before us. There is an attitude of indifference towards these proceedings. We are afraid even if the pending issues are decided on merit, their implementation would be still more complicated as is the case even now. No meaningful proceedings can take place in the absence of a positive response from Government of Khyber Pakhtunkhwa.

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

ATTESTED

33

8. We have apprised the learned Counsels of the practical aspects/difficulties and with their consent remand all the pending appeals to the respective competent authority to treat them as pending departmental appeals and decide them afresh after giving the appellants opportunity of personal hearing. These appeals are disposed of in the above terms.

Misc. Petition Nos.320, 321, 2488,2487,2098,2099/2018, 342 to 359/2017, 2144/2016, 352 to 354, 1017, 935 to 937, 934, 938/2017, 2118/2018

in

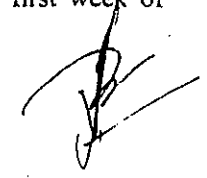
Appeal No.1106, 1116(P)CS/2017, 591(P)CS/2015, 38(P)CS/2016, 19, 348(P)CS/2014, 1117, 1119, 1120 to 1123, 1125 to 1136(P)CS/2017, 340, 211,304, 312(P)CS/2014, 584, 635, 10, 14, 24, 27(P)CS/2016 & 27(P)CS/2014

Above Misc. Petitions were filed seeking implementation of judgement dated 11.05.2015 and 30.10.2017. Whereas vide order dated 30.10.2017 direction were given for deciding pending departmental appeals, vide judgment dated 11.05.2015 directions were given for reinstatement of the appellants. However, for the question of back benefits it was directed to decide the same in accordance with instructions contained in Sl. No. 155 of ESTACODE (Edition 2007 Volume-II). The Petitioner have been reinstated however, through these petitions the issue of implementation of the order for determination of back benefits was raised. The respondents, despite repeated notices failed to respond and provide the latest status about implementation of the judgement.

10. These petitions are also remanded to the competent authority for implementation in the light of the direction of the Tribunal in Judgements dated 11.05.2015 and order dated 30.10.2017. A compliance report be furnished to the Registrar of the Federal Service Tribunal by first week of February, 2020. The petitions stand disposed of.

ATTESTED

 Registrar
 Federal Service Tribunal
 Islamabad




ATTESTED

34

Review Petition Nos.78, 84 to 101/2019

In
Appeal No.711, 720 to 726, 760 to 764, 766 to 768, 776 to 778(P)CS/2017

This brings us to the above titled review petitions which were disposed of vide order dated 20.05.2019.

12. It is contended that the appellants were given to understand that with the promulgation of 25th Amendment, Federal Service Tribunal had been divested of jurisdiction. The provincial authorities were not inclined to listen to their grievances and it would be travesty of justice if they are left without any forum to seek justice.

13. Strictly legally speaking the petition could not be entertained because of the limitation of scope of review. However, keeping in view the facts that finer legal aspects of the issues arising out of the merger of tribal areas and their administrative setup in KPK were beyond their comprehension and they might not have got the necessary assistance to pursue their appeals, we are inclined to *accept* these review petitions. As a result thereof the appeals are restored to their original numbers. The directions in para 8 of the judgement would apply mutatis mutandis in these appeals also.

14. Copies of the orders be sent to Chief Secretary KPK, Secretary, Home KPK, Commandant Levies Force, KPK for ensuring implementation of the judgment and submission of a report within three months to Registrar of the Federal Service Tribunal. Copy of the judgment be also sent to Secretary, M/o SAFRON and Secretary, Establishment Division.

15. No order as to costs. Parties will be informed.

Sd/-
MEMBER
Sd/-
CHAIRMAN

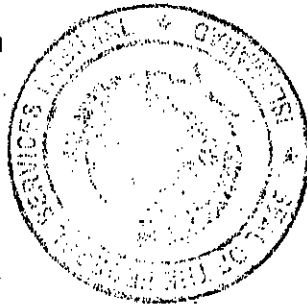
Gulzar
04.12.2019

B
ATTESTED

FEDERAL SERVICE TRIBUNAL ISLAMABAD	
No.	2512/2019
Date	11-12-2019
Page	12 -
	2
	14
	11-12-2019
	11-12-2019
	Dr. Javed
Signature	<i>Dr. Javed</i>

CERTIFIED TRUE COPY

Munir
Registrar
Federal Service Tribunal
Islamabad



To

35

ANNEXURE - G

THE HONOURABLE SECRETARY,
Home Department, Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

Subject: **APPLICATION FOR DECIDING SERVICE APPEAL AS THE APPLICANT AS PER FEDERAL SERVICE TRIBUNAL DECISION DATED 04-12-2019 WITHIN THE STATUTORY PERIOD OF 60 DAYS**

R/Sir,

Most respectfully, it is stated that I am working as Subedar (BPS-14) under the control of Deputy Commissioner Malakand Levies. I am the most senior Subedar amongst my colleagues in the rank of Subedar as per seniority list, but unfortunately One Mr. Fareed Ullah who was at Serial No. 6 of the Seniority list were given out of turn promotion to the rank of Subedar Mejr (BPS-16) against which I filed Service Appeal No. 344 (P) CS/2019 before the Federal Service Tribunal which was fixed for maintainability on 28/11/2019. The honourable bench at Federal Service Tribunal Islamabad, after hearing the argument of Provincial Government as well as from Federal Government remanded all the pending cases to their concerned Department to treat Service Appeal as Departmental Appeal and deciding the same.

(Copy of the judgment dated 04-12-2019 is attached as **Flag-A**)

It is, therefore requested that judgment dated 04-12-2019 may be implemented and decide the appeal of the applicant within the statutory period of 60 days.

I shall be very thankful to you.

(Copy of the Service Appeal is attached as **Flag-B**)

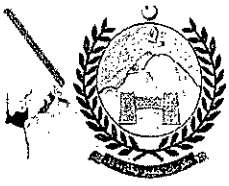


ATTESTED

Obediently Yours,



Amir Nawab
(SUBEDAR),
Malakand Lavies at Malakand.
0346-9330225



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIR DEPARTMENT

35

No. SO (Police-II)/HD/6-268/019
Dated Peshawar the 14.01.2020

To

ANNEXURE - H

1. The Registrar,
Federal Service Tribunal, Islamabad.
2. The Deputy Commissioner/Commandant,
Malakand, Levies Malakand.

Subject: - APPLICATION FOR DECIDING SERVICE APPEAL OF THE APPLICANT AS PER FEDERAL SERVICE TRIBUNAL DECISION DATED 04-12-2019 WITHIN THE STATUTORY PERIOD OF 60 DAYS

Dear Sir,

I am directed to refer to the subject noted above and to state that the subject appellant namely Mr. Amir Nawab Subedar Malakand levies was heard in person and it was decided that the subject appeal being devoid of merit, may be filed, please.

Yours Faithfully,

Encls as Above

Endst: No & date of even

Copy forwarded to:-

1. PS to Secretary Home & TA's Department.
2. The appellant for information , please.

Section Officer (Police-II)
Ph No. 091-9210503 Fax No. 9210201

4/1/2020

ATTESTED

37

VAKALATANAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

APPEAL NO. _____ /2020

AMIR NAWAB

..... (APPELLANT)

VERSUS

GOVT. OF KP & OTHERS

..... (RESPONDENTS)

I/We **AMEER NAWAB**

do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate High Court, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 16 /01/2020

CLIENT



(Amir Nawab)

ACCEPTED

NOOR MOHAMMAD KHATTAK,

MUHAMMAD MAZ MAJIDI



Advocate,
High Court, Peshawar

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Mobile No. 0345-9383141, 0333-9313113

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

Recd

Appeal No. 407 of 2020

Mr. Amir Nawab Appellant/Petitioner

Versus

Through Chief Secy etc, Respondent

Respondent No. 3

Notice to:

The Deputy Commissioner / Commandant
Malakand Levies Distt. Malakand.


WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 05.10.2020 at 8.00 A.M. If you wish to urge anything against the appellants/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. dated~~

Given under my hand and the seal of this Court, at Peshawar this 12th

Day of Feb 2020.


Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.



"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

Appeal No.....1107..... of 2020

Mr. Amir Nawab.....Appellant/Petitioner

Versus

Through.....Chief Secretary.....Respondent.

Respondent No.....1/.....

Notice to:

Mr. Farid ullah Subedar Major (BPS-16),
Malakand Levies, at Malakand.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....05/03/2020.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of his appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

Office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....12/2/20.....

of.....Feb.....20.....

Registrar,
Khyber Pakhtunkhwa Service Tribunal
Peshawar.

1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

4

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

Appeal No..... 407 of 2020

..... MR. Amir Nawab ~~Appellant~~ / Petitioner

Versus

..... Through chief Secy ~~Respondent~~

Respondent No..... I

Notice to:

The Govt. of KPK Through chief Secretary
Peshawar.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on...05/03/2020.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.


Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this~~

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this...12 Feb.....

Day of.....Feb.....2020.



Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

120

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No.

407
Appeal No. of 20 20
Mr. Amir Nawab Appellant/Petitioner
Through Chief Secy etc, Respondent
The Secretary Home, KPIC Peshawar. Respondent No.

Notice to: —

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on..... at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

Office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

day of.....20

12th
Feb 20
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

Issue Branch: CRIME UNIT
Diary No.: [Signature]
Spl Secy: [Signature]
Addl Secy: 24.2.2020
Deputy Secy:

o
D

Note:

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No.407/2020

Mr. Amir Nawab Subedar (BPS-13) Malakand LeviesAppellant

-----Versus-----

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Secretary Home & TA's Department, Khyber Pakhtunkhwa, Peshawar, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Deputy Commissioner/Commandant Malakand Levies, District Malakand.
4. Mr. Farid Ullah, Subedar Major (BPS-16), Malakand Levies at Malakand.

.....Respondents

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 28-11-2018 WHEREBY JUNIOR TO THE APPELLANT I.E. PRIVATE RESPONDENT NO.4 HAS BEEN PROMOTED TO THE RANK OF SUBEDAR MAJOR (BPS-16) WHILE THE APPELLANT HAS BEEN IGNORED INSPITE OF SENIORITY & FITNESS AND THE AGAINST THE APPELLATE ORDER DATED 14-01-2020 WHEREBY DEPARTMENTAL APPEAL FILED IN LIGHT OF FEDERAL SERVICE TRIBUNAL DECISION DATED 04-12-2019 OF THE APPELLANT HAS BEEN REGRETED ON NO GOOD GROUND

Para Wise Comments on Behalf of Respondent No.3 is as under:-

Respectfully Sheweth:-

Preliminary objection:-

1. The petitioner has got no cause of action or locus standi to submit the instant petition.
2. The petitioner is not maintainable in its present form.
3. The petitioner has not come with clean hands to this Honorable Court.
4. Due to non-joinder/mis-joinder of necessary party their petition is liable to be dismissed.

Facts:-

1. It is incorrect that the appellant was appointed in BPS-05 rather he was appointed in BPS-01 in 1985 vide his appointment order No.2348/XVII/18(LC) dated 16-03-1985 (Copy enclosed as annexure-A).
2. Correct.
3. The appellant is an illiterate and cannot lead the force as evident from the remarks of DC/Commandant Malakand Levies vide letter No.8196/LC dated 13-11-2017 of Respondent No.3 being competent authority in response to comments asked in the appeal of appellant by the Secretary,

Home & TA's Department, Khyber Pakhtunkhwa, Peshawar Respondent No.2 being appellant authority (**Copy of letter No.8196/LC dated 13-11-2017 enclosed as annexure-B**) which was dismissed/disposed-of the appellant authority vide Home & TA's Department, Khyber Pakhtunkhwa, Peshawar letter No.SO(Police-II)/HD/6-194/018 dated 25/04/2018 (**Copy enclosed as annexure-C**). Furthermore, the promotion order of Respondent No.4 was issued by the competent authority i.e. Secretary, Home & TA's Department, Khyber Pakhtunkhwa, Peshawar vide order No. SO (Police-II)HD/2-1/018 dated 28/11/2018, after proper Departmental Promotion Committee Meeting held on 26-10-2018 under the chairmanship of Secretary, Home & TA's Department Khyber Pakhtunkhwa ,Peshawar (**Copy of promotion order enclosed as annexure-D**).

4. As evident from seniority list, the Subedar from Serial No.1 to 5 are illiterate. While Respondent No.4 at Serial No.6 of the seniority list is educated/matriculate/well experience in the field of Investigation in criminal cases and also remained as Moharrir, IHC, Post Commander in various Levy Posts passed lower training course from PTC Hangu and as well Incharge of Headquarters Investigation Officer Malakand Levies (**Copies enclosed as annexure-E&F**).
5. This para is related to Respondent No.3 as competent authority and issued promotion order of the Respondent No.4 after proper Departmental Promotion Committee Meeting held on 26-02-2018.
6. Correct.
7. Correct.
8. Correct.

Grounds:-


- a. It is incorrect. Respondent No.2 being competent authority convened proper Departmental Promotion Committee Meeting on 26-10-2018 and promoted Respondent No.4 as educated, well experience in Investigation Officer etc.
- b. It is incorrect. Action taken as per Rules and Regulation/Law
- c. It is incorrect. Action taken as per Rules and Regulation/Law
- d. It is incorrect. action taken as per Rules/Law.

- e. It is incorrect. Respondent No.2 being competent authority concerned proper Departmental Promotion Committee Meeting on 26-10-2018 and issued order of promotion of Respondent No.4.
- f. No comments.
- g. It is incorrect. action taken lawfully.
- h. As above.
- i. As above.
- j. No comments.

Pray:-

Keeping in view of above, it is requested that the appeal may kindly be dismissed, please.

**DC/Commandant Malakand Levies
Respondent No.3**



**Deputy Commissioner /
Commandant
Malakand Levies**

(13)


O R D E R

Mr, Amir Nawab Khan S/O Ghulam Akbar, of village Sakhsokot, Malakand Agency, is hereby appointed as Sepoy in Malakand Levies, in National pay Scale No.1, 440-10-640. His appointment is subject to his medical fitness.

Sd/ _____
POLITICAL AGENT, MALAKAND.

No. 2348 /XVII/18 (LC) dated Malakand the 16/3/1985.

Copy forwarded to the Subedar Major, Malakand Levies, Malakand for information and necessary action.


POLITICAL AGENT, MALAKAND.



OFFICE OF THE DC/COMMANDANT
MALAKAND LEVIES MALAKAND

NO. 8196 /LC
DATED MALAKAND THE 13-11-17

To,

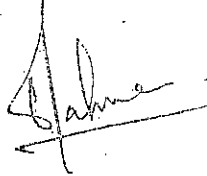
The Section Officer (Police-II),
Home & Tribal Affairs Department,
Khyber Pakhtunkhwa,
Peshawar.

Subject:- APPLICATION
Memo:-

Reference your letter No.SO(Judl)/HD/6-194/017/AmirNawab dated
04-10-2017, on the subject noted above.

It is submitted that there is no regular Subedar Major posted in
Malakand Levies as of now. In order to run daily affairs, additional charge has been
given to Subedar Abdul Wahab.

Mr. Amir Nawab's application is not based on merit, because as per
Levies Rules, most competent person will be appointed as Subedar Major
considering the seniority. Moreover, as per recent Peshawar High Court, Mingora
Bench, Dar-ul-Qaza Swat Judgment, at least Graduation is mandatory for the
Subedar Major. But Amir Nawab is not educated, hence not fit to lead the force. He
is also not well trained in the investigation as well. The application may be
dismissed.


DC/COMMANDANT
MALAKAND LEVIES MALAKAND



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

No. SO (Police-II)/HD/6-194/018
Dated Peshawar the 25.04.2018

To,

~~The Deputy Commissioner /~~
Commandant Levies,
Malakand.

Subject: - APPLICATION.

Sir,

I am directed to refer to your letter No. 8169/LC dated 13.01.20 on the subject noted above and to state that the matter may be disposed off as rules / regulations relevant to the case and as per decision of the August Supreme Court of Pakistan in letter & Spirit, please.

Yours Faithfully,

Encls as Above

Endst: No & date of even

Copy forwarded to:-

- PS to Secretary Home & TA's Department.

Section Officer (Police-II)
Ph No. 091-921050 Fax No. 091-921051

LS
MCO

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

Dated Peshawar 28 November, 2018

NOTIFICATION

No. SO(POLICE-ID/HD/2-1/018/) Consequent upon the recommendations of the Departmental Promotion Committee (DPC) in its meeting held on 26.10.2018, the competent authority (Home Secretary) is pleased to promote Subedar FaridUllah of district Malakand Levies to the rank of Subedar Major and post him as Subedar Major Malakand Levies in District Malakand against the vacant post with immediate effect.

He shall remain on probation as per Rule-5 of the Federal Levies Force (Amended) Rules, 2013.

HOME SECRETARY
KHYBER PAKHTUNKHWA

Ends No. & dated of even.

Copy of the above is forwarded for information and necessary action to:-

1. The Secretary SAFRON Government of Pakistan Islamabad.
2. The Commissioner, Malakand Division, Saidu Sharif, Swat.
3. The Deputy Commissioner / Commandant Levies, Malakand.
4. The District Account Officer, Malakand.
5. PS to Secretary Home & Tribal Affairs Department.
6. Officials.

SECTION OFFICER (POLICE)

LS



College
POLICE TRAINING SCHOOL,
HANGU

TERM ENDING *30/3/1993*

Certificate of Proficiency
Lower Class

Certified that *Mr. Faridullah No 3483*
of Malakand - Levies
has passed the prescribed Examination and is qualified for promotion
to the rank of Head Constable.

Order of merit - *27/171*
Law: 508
Drill: 185

Total: 693
HANGU

30.3.1993

(Signature)
Deputy Commissioner
Principal
Police Training School,
Hangu.



S. No 414389

Roll No 39755

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION



Peshawar N.W.F.P. Pakistan

Secondary School Certificate Examination

SESSION 1983 (ANNUAL)

THIS IS TO CERTIFY THAT FARI D ULLAH

Son/Daughter of S A I D A L E E M K H A N

and a student of GOVT. HIGH SCHOOL, AGRA, MALAKAND-AGENCY.

has passed the *Secondary School Certificate Examination*
of the Board of Intermediate and Secondary Education, Peshawar held in April 1983
as a *Regular candidate*. He/She obtained 436 Marks out of 850
and has been placed in Grade C Representing Good

The Candidate passed in the following subjects:

- | | | | |
|------------|---------------|------------------|-----------------|
| 1. English | 3. Islamiyat | 5. PAK. STUDIES. | 7. MATHEMATICS. |
| 2. Urdu | 4. CHEMISTRY. | 6. PHYSICS. | 8. BIOLOGY. |

He/She has been awarded Grade D on the basis of internal assessment by the Institution concerned.

Date of birth according to admission form is FIFTEENTH DECEMBER
one thousand nine hundred and SIXTY-FIVE (15-12-1965)

[Signature]
Asstt. Secretary

10th August 1983 *[Signature]*

[Signature]
Attested.

[Signature]
Deputy Distt Edn. Officer

(Male) Malakand (Mkd. Agency)

[Signature]
Secretary.

This certificate is issued without alteration or erasure

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR. S.B

No. 407 20
Appeal No. of 20

enc. Mr. Amir Nawab Appellant/Petitioner

through Chief Secy Peshawar Respondent

10-3-20

The Secretary Home Peshawar.

Notice to: —

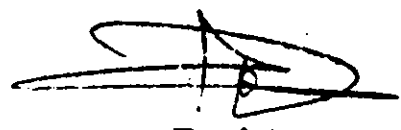
WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....
Day of.....20

(For Reply)



Registrar,
Khyber Pakhtunkhwa Service Tribunal
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.



"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No. .

S.F.B

Appeal No.....407..... of 20

.....Mr. Amir Nawab..... Appellant/Petitioner

Versus

Through Chief Secy Peshawar..... Respondent
Respondent No. 1.....

Notice to: —

Through chief secretary Peshawar.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....19/3/2020.....at 8.00 A.M. If you wish to urge anything against the appellent/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....9/3/20.....

Day of.....March.....2020

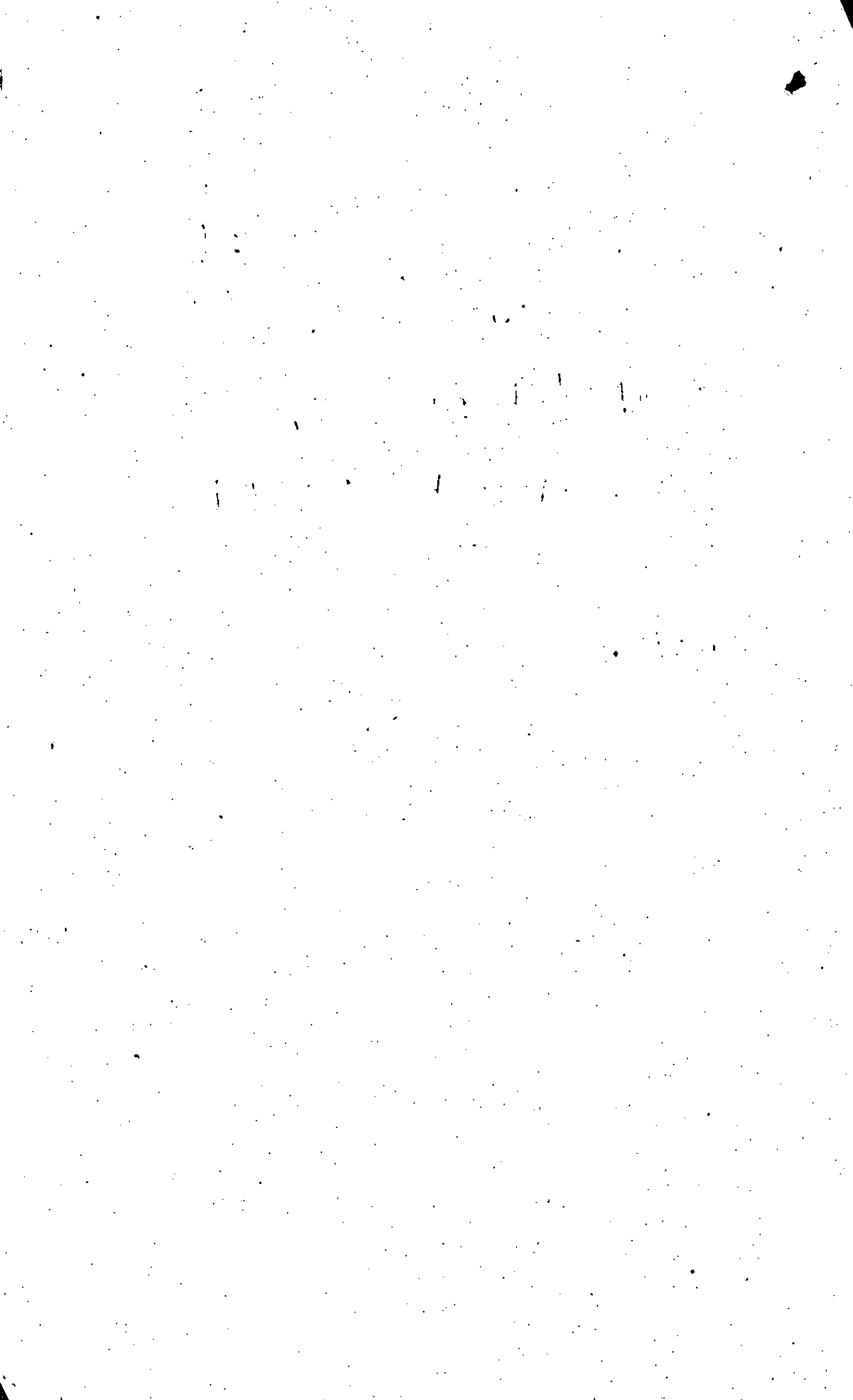
(For Reply)

[Signature]
12/03
SECRETARY
Govt of Khyber Pakhtunkhwa
Peshawar

[Signature]
Registrar

**Khyber Pakhtunkhwa Service Tribunal,
Peshawar.**

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.



"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

S.B

No.

Appeal No. 407 of 20 20

Mr. Amir Nawab Appellant/Petitioner

Versus

Through Chief Secy Peshawar Respondent
Respondent No. 3

Recd

Notice to: —

The Deputy Commissioner /
Commandant Malakand Levies Distt

WHEREAS an appeal/petition under the provision of the North-West Frontier ^{Mala} Province Service Tribunal Act, 1974, has been presented/registered for consideration, in ^{Kand} the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 30/6/2020 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

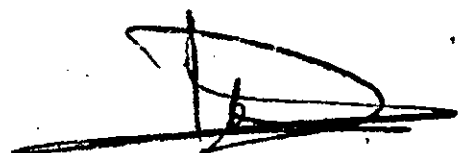
Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Application

Copy of ~~appeal~~ application is attached. Copy of ~~appeal has already been sent to you vide this~~ office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 25th

Day of June 20 20



Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.



"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

S.B.

No.

407

20

Appel. No. of 20

Mr. Amir Nawab

Appellant/Petitioner

Through Chief Secy Peshawar

Respondent

Respondent No.

Mr. Farid ullah Subedar Major

Notice to:

(BPS-16) Malakand Levies at Malakand.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on *30/6/2020* at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition. *6/6/20*

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated..... *25/6*

Given under my hand and the seal of this Court, at Peshawar this.....
Day of..... *June*20 *20*

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

9

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

C.M. NO. _____/2020

IN

APPEAL NO. _____/2019

AMIR NAWAB

VS

GOVT: OF KP

APPLICATION FOR SUSPENSION OF THE OPERATION
OF ORDER 30.03.2020 TILL THE DISPOSAL OF THE
ISNATNT SERVICE APPEAL

R.SHEWETH:

1. That the appellant has filed the above titled service appeal before this Honorable Service Tribunal in which is fixed for hearing today on 18.06.2020.
2. That appellant filed the above mentioned service appeal against the impugned Notification dated 28.11.2018 whereby Junior to the appellant has been promoted to the Rank of Subedar Major (BPS-16) while the appellant has been ignored.
3. That during the pendency of the above mentioned service appeal the respondent Department issued order dated 30.03.2020 whereby the appellant has pre-maturely been retired from service. Copy of the order alongwith other record is attached as annexure.....A.
4. That all the three ingredients required for grant of stay are in favor of the appellant.
5. That any other ground would be taken at the time of arguments with prior permission of this Honorable Tribunal.

It is therefore, most humbly prayed that on acceptance of this application the retirement order dated 30.03.2020 may very kindly be suspended till the disposal of the instant service appeal.

APPELLANT


AMIR NAWAB

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE,
High Court Peshawar

A - (2)

OFFICE OF THE DC/COMMANDANT
MALAKAND LEVIES MALAKAND

NO. _____ LC
DATED MALAKAND THE 30/03/2020

OFFICE ORDER

ANNEXURE - 2

In pursuance of the Notification No. 50(Levies)/HD/FLW/1-1/2013/Vol.1 dated 25-08-2016 Amended Service Rules 2016 Schedule III, issued by Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department, Peshawar, No.3429 Subedar Amir Nawab of Malakand Levies, is hereby retired from service w.e.f 31/03/2020(AN) with full pensionary benefits on completion of 35-years requisite service length.

2281-84

No. _____ /LC

DC/COMMANDANT
MALAKAND LEVIES MALAKAND

Copy forwarded to the:-

1. Section Officer (Levies), Home & TA's Department, Khyber Pakhtunkhwa, Peshawar with reference to Notification referred above for information.
2. District Accounts Officer, Malakand.
3. Subedar Major Malakand Levies.
- ✓ 4. Official concerned.

For information & Necessary action.

[Signature]
DC/COMMANDANT
MALAKAND LEVIES MALAKAND

[Handwritten marks]

3

SENIORITY LIST OF MALAKAND LEVIES PERSONNEL

SR/O	NAME	Date of Enlistment	Age	L/NAIK	RANK	DATE OF PROMOTION OF ALL RANKS				PROMOTION DATE			
						HAVILDAR	INSUR	SUBEDAR	S.M.	ON SERVICE	ON AGE	ON TENURE	
1	Subedar (A) P...-1	1985-15											
Subedars-15													
1	3129	16/1/1985	18-years	6/3/2003	15/8/2005	11/2/2008	10/1/2010	23/4/16	11/3/2020	31/3/2027	23/7/202		
2	3128	15/1/1985	18-years	19/5/2003	2/8/2005	7/12/2008	10/1/2010	25/2/2018	11/5/2020	31/5/2027	25/2/21		
3	3440	15/1/1985	18-years	1/5/2003	18/8/2005	1/2/2009	10/1/2010	25/2/2016	11/5/2020	31/5/2027	25/2/21		
4	3443	15/1/1985	18-years	5/6/2003	15/10/05	1/2/2009	10/1/2010	25/2/2016	10/3/2020	31/1/2025	25/2/21		
5	3450	15/1/1985	18-years	18/7/2003	15/10/05	21/2/2008	10/1/2010	25/2/2016	11/10/2020	10/1/2026	25/8/21		
6	3463	15/1/1985	18-years	1/10/2003	13/2/06	20/3/2009	12/3/2010	26/8/2018	10/1/2020	10/1/2026	25/8/21		
7	3465	15/1/1985	19-years	16/10/2003	15/2/06	26/2/2010	11/7/2010	26/8/2018	10/1/2020	10/1/2026	25/8/21		
8	3487	15/1/1985	19-years	5/1/2003	18/10/03	15/2/09	17/2/10	14/12/16	31/1/2021	28/2/2028	13/12/21		
9	3473	15/1/1985	19-years	1/12/2003	15/11/08	15/2/09	16/11/2010	19/10/17	31/1/2021	11/0/2025	18/10/22		
10	4455	15/2/1985	19y3	2/11/2004	5/5/2007	1/7/2009	16/11/2010	15/10/17	30/4/2021	30/4/2026	15/10/22		
11	3477	15/2/1985	20y20y	2/11/2004	5/5/2007	1/7/2009	16/11/2010	15/10/17					
12	3480	15/2/1985	20y20y	2/11/2004	5/5/2007	1/7/2009	16/11/2010	15/10/17					
13	3483	15/2/1985	20y20y	2/11/2004	5/5/2007	1/7/2009	16/11/2010	15/10/17					
Havildars-33													
1	3489	15/2/1985	20-years	1/2/2004	6/9/2007	10/1/2010	13/2/2011		30/4/2021	20/6/2028	22/2/2018		
2	3504	15/2/1985	23-years	23/7/2004	20/9/08	10/1/2010	10/2/2012		27/1/2025	12/11/2023	15/1/2018		
3	3519	15/2/1985	18-years	1/3/2005	1/2/2009	10/1/2010	10/2/2012		13/3/2020	13/3/2029	9/2/2019		
4	3521	15/2/1985	19y6	1/2/2005	1/2/2009	10/1/2010	10/2/2012		13/3/2020	13/3/2029	9/2/2019		
5	3548	15/2/1985	22-years	14/5/05	13/2/2008	10/1/2010	25/7/2012		9/7/2025	9/7/2025	10/8/2025		
6	3550	15/2/1985	22-years	5/6/2005	21/2/09	10/1/2010	25/7/2012				10/8/2025		

35 Years A - ANNEXURE

ATTESTED

27/2/20

"Schedule" means the Schedule appended to these rules;

"Initial recruitment" means appointment made other than by promotion or by transfer;

"Home Department" means Provincial Home & Tribal Affairs Department

"Government" means the Government of Khyber Pakhtunkhwa;

"Deputy Commandant (Administration)" means Deputy Commandant (Administration) of the Force, who shall be an officer of the provincial government to exercise in his respective jurisdiction such powers and perform such functions as may be prescribed and who shall be responsible to the Commandant for administration and establishment matters of the Force in PATA.

"Deputy Commandant (Operations)" means an Assistant Commissioner or any officer of the District designated as such by the provincial government who shall be jurisdiction such powers and perform such functions as may be prescribed; and who shall be responsible to the Commandant for operational matters of the Force in PATA.

"Commandant" means Commandant of the Force, who shall be the Deputy Commissioner in their respective jurisdiction;

"Appointing Authority" means the appointing authority specified in rule-4;

2. Definitions-(1) In these Rules, unless the context otherwise require, the following expressions shall have the meaning hereby respectively assigned to them, namely:-

(2) They shall come into force at once.

1. Short title and commencement-(1) These rules may be called Provincially Administered Tribal Areas (PATA) Federal Levies Force Service (Amended) Rules, 2013.

in exercise of the powers conferred by Section 9 of the PATA Levies Force Regulation, 2012 the Provincial Government of Khyber Pakhtunkhwa is pleased to make the following rules, namely:-

SERVICE RULES FOR FEDERAL LEVIES FORCE IN PATA

Peshawar the 4th February 2013

NOTIFICATION

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

PESHAWAR, FRIDAY, 16TH FEBRUARY, 2013.

Published by Authority

KHYBER PAKHTUNKHWA

4

ANNEXURE -

GAZETTE

REGISTERED NO. P111



GOVERNMENT

ORDINARY

(i) "Selection or Promotion Committee" means a Committee for recruitment or as the case may be, promotion of Force personnel as notified by the Government;

(j) "Service" means the levies service;

(2) The expression used but not defined herein shall have the same meanings as are assigned to them under the PATA Levies Force Regulation 2012.

3. **Composition and eligibility of the Force.** - (1) The Force shall comprise of the posts specified in Schedule-I and such other posts as may be determined by the Government from time to time.

(2) Recruitment to the Force shall be made in accordance with the requirement specified in Schedule-I. No person shall be appointed unless he fulfils the following conditions:-

(a) The candidate shall be a citizen of Pakistan and bonafide resident of the respective district of Khyber Pakhtunkhwa.

(b) The candidate shall be, in good mental and bodily health and free from physical defect, which likely to interfere in the efficient discharge of his duties.

(c) Medical Superintendent of the respective district headquarter hospital shall issue a certificate of medical fitness to the candidate.

(d) Recruitment to all ranks of the Force shall be made from amongst those persons having a minimum height of 5'-7" and chest measurement of 34"-35 1/2" with an age of not less than eighteen years and not more than twenty-five years on the last date of submission of application;

(e) No person (except those who are already in Government Service) shall be appointed to the Force unless he produces a certificate of character from the Principal of Academic institution last attended or a certificate of character from two gazetted officers from respective districts, not being his relative and who are well acquainted with his character; and

(f) No person who is married to foreign national shall be eligible for appointment in the Force, unless allowed by the Government, in writing.

4. **Appointing Authority.** - (1) Commandant shall be the appointing authority for initial recruitment and promotion up to the rank of Subedar. Whereas promotion to the rank of Subedar Major and above, the authority shall rests with the provincial government.

(2) Appointment to the post shall be made in accordance with the provisions contained in Schedule-I, read with Rule-3 of these rules.

(3) Appointment either through initial recruitment or by promotion shall be made through duly constituted Selection/promotion Committees.

Provided that in case of raising of force in a new district, the Commandant shall have the authority to recruit ex-servicemen above the rank of sepoy on contract basis for a period of one year extendable for a further period of one year but not exceeding three years in total, with prior approval of the government.

It is further provided that the ex-serviceman so appointed on contract shall not be more than forty five years of age.

5. **Probation.** - Persons appointed to posts by initial recruitment, promotion or transfer shall remain on probation for a period of one year extendable by a further period of one year. If no order is issued on the expiry of the first year of probation period, the period of probation shall be deemed to have been extended for further one year. If no order is issued on the completion of extended period, the probation shall be deemed to have been terminated.

Training - (1) All newly recruited personnel of the Force shall undergo six months pre-service training before being assigned duties of the rank for which they selected. Initially, the Appointing Authority shall arrange for appropriate training till a proper Levies Training Center is established.

(2) The pre-service training mentioned in sub-rule (1) may contain training on basic law, investigation techniques, mob control, basic intelligence, arrest and detention procedure, jail duties, drill, weapons training, field craft, bomb disposal, counter assault, traffic control, raids, watch & ward etc. Proper training syllabus and modules shall be developed through mutual consultation with local law enforcing agencies by the Home Department.

7. Resignation.-No member of the Force shall resign before the expiry of the first three months of his recruitment or he shall deposit an amount equal to his three months pay in lieu of his three months essential service.

8. Seniority and promotion.- (1) Promotion shall be strictly on seniority cum fitness basis as well as on the required length of service as specified in Schedule-I.

(2) The service of a personnel by initial recruitment, promotion or transfer may be dispensed with or reverted if, in the opinion of the competent authority his work and conduct is not satisfactory during probation period or due to abolishment of posts, as the case may be.

Provided that in case of dispensing with their service or reversion the concerned authority shall record cogent reasons for such action in writing.

(3) The seniority list of the Force shall be maintained at district level. Commandant shall be responsible for maintaining the seniority list of the force and shall notify annually.

9. Transfer during service. - Every member of the service shall be liable to serve anywhere within PATA with the prior approval of the Commissioner Malakand Division.

10. Punishment. -After satisfying himself regarding punishable acts (as referred in Schedule-II) through a charge duly framed in writing, necessary punishments specified in Schedule-IV may be awarded by the respective authority.

Provided that punishment so awarded shall be duly incorporated in service rolls / service dossier accordingly.

11. Appeal - If any personnel of the force is aggrieved by any order issued under these rules, within thirty days of communication to him of such order, may prefer an appeal to the competent authority.

Provided that no appeal shall lie against the punishments specified at S.No. (1) and (2) of Schedule-IV.

12. Awards and commendations. -(1) Force personnel may be given special award and commendation certificate for devotion to duty, demonstration of gallantry and such achievement in the performance of duty, in the manners as prescribed by the Commandant, and shall be made part of the service rolls / service dossier.

(2). Force personnel, if embraces martyrdom in the discharge of his duty, will be given proper Guard of Honour at the time of burial.

13. Service Record. -Proper service rolls / service dossiers of all Force Personnel shall be maintained in Levy Office of each district. Annual reports of all Havaldars and Junior Commissioned Officers (JCOs) will also be maintained for the purpose of promotion.

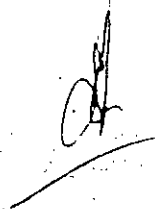
14. Uniform.-The levy personal shall attire black shahwar qamees with brown chappli, white socks, black beret cap and black belt whereas the JCOs will wear brown belt during duty hours.

15. Leave.- (1) Leave may be granted depending on the exigencies and at the discretion of the Commandant. All leave of ten days or above, will be considered as long leave and shall be granted on the recommendations of Subedar Major by the Commandant.

24. An Anomaly Committee duly constituted/notified vide Home and Tribal Affairs Department, Khyber Pakhtunkhwa Notification No. SO(Police)/HD/12-19/2012 dated 11th December, 2012 shall consider and remove such anomalies from time to time referred to the competent authority.

25. ~~Repeal~~-Any rules, orders or instructions enforce in respect of the PATA Levies Force, immediately before the commencement of these rules shall stand repealed in so far as these rules, orders or instructions are inconsistent with the rules.

Secretary
Home & Tribal Affairs Department
Government of Khyber Pakhtunkhwa



②
③

(7) All non-uniform personnel shall retire from service on attaining the age of superannuation i.e. 60 years or they may opt for the retirement after completion of 25 years of regular service and no extension in service beyond retirement shall be granted.

Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Ends No. & dated of even.

Copy of the above is forwarded for information and further necessary action to:-

1. The Secretary to Government of Pakistan, Ministry of SAFRON, Islamabad with reference to his Notification No.F.10 (5)-LK/2006 dated 05-12-2013.
2. The Commissioner, Malakand Division, Malakand.
3. The Deputy Commissioner/Commandant, Malakand Levies, Malakand.
4. The Deputy Commissioner/Commandant Levies, Chitral.
5. The Deputy Commissioner/Commandant Levies, Dir Upper.
6. The Deputy Commissioner/Commandant Levies, Dir Lower.
7. The Deputy Commissioner/Commandant Levies, Swat.
8. PS to Secretary to Governor to Khyber Pakhtunkhwa.
9. PS to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to A.C.S (FATA) Secretariat Peshawar.
11. PS to Secretary Home & Tribal Affairs Department.
12. The Manager Government Printing Press, Peshawar for publication in the official Gazette Peshawar as an extra ordinary copy.

Section Officer (Levies)

⑨

SCHEDULE - II
(see Rule 10)

(10)

(10)

Grades of penalty

The concerned authority may impose one or more penalties, where a personnel of the Force, in the opinion of the authority: -

- a. is inefficient or has ceased to be efficient;
- b. is guilty of misconduct, like unauthorized absence from leave, breach of orders, disobedience, unruly behavior, passing on official secrets to unauthorized persons, etc;
- c. is corrupt, or may reasonably be considered corrupt;
- d. is guilty of any violation of duty;
- e. loses, misplaces or causes harm to a weapon through negligence or lack of maintenance;
- f. is insubordinate to his superiors;
- g. is convicted of a criminal offence;
- h. is guilty of cowardice, or abandons any picket, fortress, post or guard which is committed to his charge or which is his duty to defend;
- i. is engaged in propagation of sectarian, parochial, anti-state views and controversies;
- j. is engaged or is reasonably suspected of being engaged to excite, cause or conspire to cause or joins in any mutiny, or being present at any mutiny and does not use his utmost endeavor to suppress it;
- k. attempts collective bargaining, conspiring or attempting to call off duty or take procession to press for the demands; or
- l. is guilty of omission and commission under the law and rules.
- m. deserts the service.
- n. Being a sentry, sleeps upon his post or quits it without being regularly relieved or without leave; or
- o. Without authority, leaves his commanding officer, or his post or party, to go in search of plunder; or
- p. Quits his guard, picket, party or patrol without being regularly relieved or without leave; or
- q. Uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or without authority breaks into any house or any other place for plunder, or plunders, destroys, or damages any property of any kind; or
- r. Internally causes or spreads a false alarm or rumour during action or in post, camp, lines, or quarters.

11

SCHEDULE - I
See rules 4(2) and 8

A. Uniformed Force

S.#	Post/Rank	Eligibility for promotion	Promotion Quota	Direct Quota	Qualification
1.	Subedar Major (BS-16)	03 years service as Subedar	100%		
2.	Subedar (BS-13)	03 years service as Naib Subedar	100%		
3.	Naib Subedar (BS-11)	03 years service as Havaldar	100%		
4.	Havaldar (BS-8)	03 years service as Naik	100%		
5.	Naik (BS-7)	03 years service as Lance Naik	100%		
6.	L/Naik (BS-6)	03 years service as Sepoy	100%		
7.	Sepoy (BS-5)			100%	Middle pass preferably Matric
8.	Head Armourer BPS-05	05 years service as Assistant Armourer	100%		
9.	Assistant Armourer BPS-01			100%	Certificate of Armourer

B. Ministerial staff

10.	Assistant (BS-14)	KPO/ Computer Operator/ Senior clerk/ Junior Clerk (I) Minimum 5 years service as KPO/ Computer Operator; (II) 5 years service as Senior Clerk; (III) 7 years service as Junior Clerk	50%	50%	B.A. or equivalent for direct recruitment and by promotion seniority-cum-fitness from amongst KPO/Computer Operator/Senior clerk/Junior Clerk on the basis of their date of entry into service.
11.	KPO/ Computer Operator BPS-12			100%	Intermediate with one year diploma in IT from a recognized institute
12.	Senior Clerk (BS-9)	5 years service as Junior Clerk	100%		
13.	Junior Clerk (BS-7)		10% from lower staff with Matric	90%	Matric with a typing speed of 30 words per minutes / preferably computer literate
14.	Behisht (BS-5)			100%	Literate
15.	Driver (BS-4)			100%	Driving License / Driving Experience
16.	Pesh Imam BPS-02			100%	Mouh/Fazl
17.	Tracker (BS-2)	5 years service in BS-1	10%	90%	Primary Pass
18.	Naib Qasid BPS-01			100%	Literate
19.	Sweeper (BS-1)			100%	Literate

SCHEDULE - IV
See Rule 10

1	Extra Duty not exceeding fifteen days fatigue or other duties.	Subedar	Subedar	NaibSubedar	NaibSubedar
2	Confinement to quarter guard upto fifteen days.	Commandant	Deputy Commandant	Deputy Commandant	Subedar Major
3	Censure	-do-	-do-	-do-	-do-
4	Forfeiture of approved service upto two years	-do-	-do-	-do-	-do-
5	Stoppage of increment not exceeding one month's pay	-do-	-do-	-do-	-do-
6	Fine to any amount not exceeding one month's pay	-do-	-do-	-do-	-do-
7	Withholding of promotion for one year or less.	-do-	-do-	-do-	-do-
8	Reduction from substantive rank to a lower rank or reduction in pay.	-do-	-do-	-do-	-do-
9	Dismissal or removal from service or compulsory retirement.	-do-	-do-	-do-	-do-

Printed and published by the Manager, Govt. Press, Peshawar.

[Handwritten signature]

12

[Handwritten mark]

(13)

NOTIFICATION

No. So(Levies)HD/FLW/1-1/2013/Vol.1. The competent authority has been pleased to approve further amendments in Schedule-I of Rule-4(2) and Schedule-III of Rules-17 under Part-10 of the Regulation for PATA Levies Force, 2012 & Rule-24 of the Provincially Administered Tribal Areas (PATA) Federal Levies Force Service (Amended) Rules, 2013 as under:-

Rule-4(2) Schedule-I

SCHEDULE-I
See Rule 4 (2)

A. Uniformed Force					
S.No	Post/ Rank	Eligibility for promotion	Promotion Quota	Direct Quota	Qualification
1	Subedar Major (BS-16)	One year service as Subedr	100%		✓
2	Subedar (BS-13)	One year service as Naib Subedar	100%		
3	Naib Subedar (BS-11)	One year service as Hawaldar	100%		
4	Hawaldar (BS-8)	One year service as Naik	100%		
5	Naik (BS-7)	One year service as Lance Naik	100%		
6	Lance Naik (BS-6)	Five years' service as Sepoy	100%		
7	Sepoy (BS-5)			100%	Middle pass preferably Matric
8	Head Armorer (BPS-5)	Five years' service as Assistant Armorer	100%		Middle pass preferably Matric with Certificate of Armorer
9	Assistant Armorer (BPS-1)			100%	Middle pass preferably Matric with Certificate of Armorer

Rule-17 (Retirement). (1) All uniform levy personnel shall retire as per Schedule-III or they may opt for retirement after completion of 25 years of regular service and no extension in service beyond retirement shall be granted.

SCHEDULE-III
Rule-17 (Retirement)

S.No	Post/ Rank	Length of service / age for retirement.
1	Subedar Major (BS-16)	37 years' service or 60 years of age whichever is earlier.
2	Subedar (BS-13)	35 years' service or 60 years of age whichever is earlier.
3	Naib Subedar (BS-11)	33 years' service or 60 years of age whichever is earlier.
4	Hawaldar (BS-8)	31 years' service or 60 years of age whichever is earlier.
5	Naik (BS-7)	29 years' service or 60 years of age whichever is earlier.
6	Lance Naik (BS-6)	27 years' service or 60 years of age whichever is earlier.
7	Sepoy (BS-5)	25 years' service or 60 years of age whichever is earlier.

P.T.O

[Handwritten signature]

SCHEDULE - III
 See Rule 17

S.#	Post/Rank	Length of service / Age
1	Subedar Major (BS-16)	38 years service or 03 years service as Subedar Major or 80 years age whichever is earlier
2	Subedar (BS-13)	35 years service or 03 years service as Subedar or 87 years age whichever is earlier
3	NalbSubedar (BS-11)	32 years service or 03 years service as NalbSubedar or 84 years age whichever is earlier
4	Havaldar (BS-8)	29 years service or 03 years service as Havaldar or 81 years age whichever is earlier
5	Naik (BS-7)	26 years service or 03 years service as Naik or 48 years age whichever is earlier
6	L/Naik (BS-6)	23 years service or 03 years service as L/Naik or 45 years age whichever is earlier
7	Sepoy (BS-5)	20 years service or 42 years age whichever is earlier

85/
 95/28
 05/38
 15/48

[Handwritten signature]

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT



70482

(15)

NOTIFICATION

NO. SO(LEVIES)/HD/ELW/1-1/2013/Vol.1 In partial modification of this Department Notification of even No. dated 12.12.2013, the Competent Authority has been pleased to approve the recommendations of the Anomaly Committee of its meeting held on 28.02.2014 in the Ministry of SAFRON Islamabad, that amendments made in the PATA Levies Force (Amended) Service Rules 2013 shall be effective from 4th February, 2013.


HOME SECRETARY

Endst. No. SO (Levies) HD / 1 - 1 / 2013 / Vol-1

Dated 17th March, 2014

Copy forwarded to the:-

1. Secretary Ministry of SAFRON, Government of Pakistan, Islamabad.
2. AGPR, Khyber Pakhtunkhwa sub office Peshawar
3. Commissioner Malakand Division at Saidu Sharif Swat
4. The Deputy Commissioner Chitral, Upper Dir, Lower Dir, Malakand & Swat (They are directed to inform all the affectees through special messenger).
5. District Account Officer, Chitral, Upper Dir, Lower Dir, Malakand & Swat.
6. PS to Secretary to Governor Khyber Pakhtunkhwa
7. PS to Chief Secretary Khyber Pakhtunkhwa.
8. Section Officer (Budget) Home Department.
9. Section Officer (Courts) Home Department.
10. PS to Secretary Home, Khyber Pakhtunkhwa.


SECTION OFFICER (LEVIES)

BETTER COPY OF PAGE- ~~20~~ 20

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

Dated Peshawar 28 November, 2018

NOTIFICATION

No. SO(POLICE-IV/HD/2-1/018/): Consequent upon the recommendations of the Departmental Promotion Committee (DPC) in its meeting held on 26.10.2018, the competent authority (Home Secretary) is pleased to promote Subedar Faridullah District Malakand Levies to the rank of Subedar Major and post him as Subedar Major Malakand Levies in District in District Malakand aginst the vacant post with immediate effect.

He shall remain on probation as per Rule-5 of the Federal Levies for (Amended) Rules, 2013.

HOME SECRETARY
KHYBER PAKHTUNKHWA

Encl: No. & dated of even.

- Copy of the above is forwarded for information and necessary action to:-
1. The Secretary SAFRON Government of Pakistan Islamabad.
 2. The Commissioner, Malakand Division, Saidu Sharif, Swat.
 3. The Deputy Commissioner/Commandant Levies, Malakand.
 4. The District Account Officer, Malakand.
 5. PS to Secretary Home & Tribal Affairs Department.
 6. Officials.







(17) (20)

ANNEXURE - 3 -

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

Dated Peshawar 28 November, 2018

NOTIFICATION

No. SUPOLICE-10/HDD-1018: Consequent upon the recommendations of Departmental Promotion Committee (DPC) in its meeting held on 26.10.2018, competent authority (Home Secretary) is pleased to promote Subedar Farid Ullah district Malakand Levies to the rank of Subedar Major and post him as Subedar Major Malakand Levies in District Malakand against the vacant post with immediate effect.

He shall remain on probation as per Rule-5 of the Federal Levies For (Amended) Rules, 2013.

HOME SECRETARY
KHYBER PAKHTUNKHWA

Ends No. & dated of even.

Copy of the above is forwarded for information and necessary action to:-

1. The Secretary SAFRON Government of Pakistan, Islamabad.
2. The Commissioner, Malakand Division, Saidu Sharif, Swat.
3. The Deputy Commissioner / Commandant Levies, Malakand.
4. The District Account Officer, Malakand.
5. PS to Secretary Home & Tribal Affairs Department.
6. Officials.

SECTION OFFICER (POLICE-I)

ATTESTED

ATTACHED

18
①
②

ANNEXURE D

CHARGE REPORT

In pursuance of the order of Secretary Home & TA's Department, Khyber Pakhtunkhwa, Peshawar issued vide No. SO(Police-II)HD/2-1/018/ dated 28-11-2018, I assumed the charge of the Post of Subedar Major, Malakand Levies today i.e. 28-11-2018(AN).

(FARID ULLAH)
SUBEDAR MAJOR, MALAKAND LEVIES

No. 1431-36 /SM Dated 28-11-2018
Copy forwarded to the:

1. DC/Commandant Malakand Levies for information; please
2. Additional Deputy Commissioner, Malakand at Batkhela, for information; please.
3. Secretary to Commissioner, Malakand Division at Saidu Sharif, Swat, for information; please.
4. Section Officer (Police-II), Government of Khyber Pakhtunkhwa Home & TA's Department, Khyber Pakhtunkhwa, Peshawar for information with reference to his letter No. SO(Police-II)HD/2-1/018/ dated 28-11-2018; please.
5. District Accounts Officer, Malakand for information and necessary action; please.
6. Superintendent, Malakand Levies, for information.

(FARID ULLAH)
SUBEDAR MAJOR, MALAKAND LEVIES

ATTESTED

NO. 1431-36 /SM
DATED 28-11-2018

(19)

(19)

(19)

ANNEXURE - 5

BEFORE THE FEDERAL SERVICE TRIBUNAL, ISLAMABAD

APPEAL NO. 344 (PXS) / 2019

Mr. Amir Nawab, Subedar (BPS-13),
Malakand Levies at Malakand.

..... APPELLANT

VERSUS

- 1- The Govt. of Pakistan through Secretary SAFRON, Pak Secretariat, Islamabad.
- 2- The Secretary Home and Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Deputy Commissioner/ Commandant Malakand Levies, District Malakand.
- 4- Mr. Farid Ullah, Subedar Major (BPS-16), Malakand Levies at Malakand.

..... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE FEDERAL SERVICE TRIBUNAL ACT, 1973 AGAINST THE IMPUGNED NOTIFICATION DATED 28.11.2018 WHEREBY JUNIOR TO THE APPELLANT I.E. PRIVATE RESPONDENT NO. 4 HAS BEEN PROMOTED TO THE RANK OF SUBEDAR MAJOR (BPS-16) WHILE THE APPELLANT HAS BEEN IGNORED INSPITE OF SENIORITY & FITNESS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

OB

PRAYER:

That on acceptance of this appeal the impugned Notification dated 28.11.2018 may very kindly be set aside and the respondents may be directed to consider the appellant for promotion to the Rank of Subedar Major (BPS-16) w.e.f. the date when the private respondent No. 4 had been promoted i.e. with effect from 28.11.2018 with all consequential benefits including seniority. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Handwritten signature

R/SHWETH:
ON FACTS:

~~20~~

~~20~~

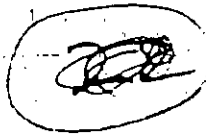
20

1. That initially the appellant was appointed as Sepoy (BPS-5) in the respondent's Department on 1.4.1985. That later on the appellant was promoted to the Ranks of Lance Naik, Naik, Havaldar and Subedar (BPS-13) vide orders mentioned in the seniority list prepared for the employees of Malakand Levies. Copy of the Seniority list showing the dates of appointment and promotions is attached as Annexure A.
2. That the respondent Department Framed/formulated service structure for the Levies personnel vide Notification dated 4.2.2013 whereby the method for recruitment of Subedar Major (BPS-16) has been mentioned as 100% by promotion on the basis of seniority cum fitness from amongst Subedars (BPS-13). Copy of the Rules are attached as annexure..... B.
3. That according to the seniority list already attached as annexure-A the appellant being the senior most employee of the respondent Force has been Ranked at Serial No.1 of the Seniority list. That appellant was quite hopeful for his promotion to the Rank of Subedar Major (BPS-16) due to his excellent record of service and having seniority cum fitness.
4. That astonishingly vide impugned Notification dated 28.11.2018 the private respondent who is at serial No.6 of the seniority list circulated for the employees of respondent Force has been promoted to the Rank of Subedar Major (BPS-16) while the appellant being the senior most employee of the respondent Force has been ignored without any reason and rhyme. Copies of impugned Notification and charge report are attached as Annexure C & D.
5. That feeling aggrieved from the impugned Notification dated 28.11.2018 the appellant preferred Departmental Appeal dated 19.12.2018 before the respondent No.2 but till date no action has been taken by the respondent No.4 on the Departmental appeal of appellant. Copy of Departmental Appeal is attached as Annexure E.
6. That appellant feeling highly aggrieved and having no other remedy filed the instant appeal on the following grounds amongst the others.

~~CP~~ 21

GROUND S:

- A- That the impugned Notification dated 28.11.2018 issued by the respondents are against the law, facts, norms of natural justice & materials on record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned Notification dated 28.11.2018 are based on mala fide and arbitrary intentions of the respondents hence not tenable in the eye of law and liable to be set aside.
- D- That the impugned Notification dated 28.11.2018 issued by the respondents is not in accordance to the seniority list issued by the respondents and as such the same is violative of section-9 of the Civil servant Act, 1973 read with Rule 7 of the Appointment, promotion and transfer Rules.
- E- That, the act of the respondents by ignoring the appellant from promotion to the Rank Subedar Major (BPS-16) inspite of seniority and eligibility is squarely falls within the violation of law and Rules.
- F- That according to Article 38 (e) of the Constitution of Pakistan 1973 state is bound to reduce disparity in the income and earnings of individuals including persons in the services of Federation.
- G- That the impugned Notification dated 28.11.2018 is based on discrimination and as such not tenable in the eye of natural justice.
- H- That it is crystal clear from the final seniority list of Subedar that appellant is senior than the private respondent No.4 but inspite of that the appellant was ignored from promotion to the Rank of Subedar Major (BPS-16).
- I- That according to the service Rules of the Federal levies Force dated 4.2.2013 the Post of Subedar Major (BPS-16) has to be fill up on the basis of seniority cum fitness from amongst senior most Subedar and as such the appellant being the senior most employee of the respondent Force is entitle to be promoted to the Rank of Subedar Major (BPS-16) but inspite of that the respondent promoted the private respondent No.4.





22

That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may very graciously be accepted as prayed for.

Dated: 3-4-2019

APPELLANT



AMIR NAWAB

THROUGH:



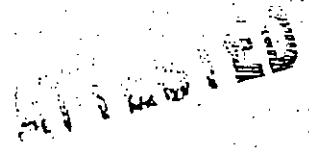
NOOR MOHAMMAD KHATTAK

&



MUHAMMAD MAAZ MADNI
ADVOCATES







(23)

(23)

23

Judgement Sheet
IN THE FEDERAL SERVICE TRIBUNAL, ISLAMABAD

REPORT : Oazi Khalid Ali, Chairman and
Raja Hasan Abbas, Member

ANNEXURE-1

S. No.	Appellate No.	Appellants	Date of Institution
1.	87(P)CS/2019	Mr. Sher Gulab, Ex-Sepoy, S/o Bacha Syed, R/o Shandai Morth, Shandai, P.O. Khar, Tehsil Khar, District Bajaur	18.01.2019
2.	88(P)CS/2019	Najeeb Ullah, Ex-Sepoy, S/o Shina R/o Bars Laghary, P.O. Tarkho, Tehsil Mamund, District Bajaur	18.01.2019
3.	89(P)CS/2019	Salim, Ex-Sepoy, S/o Saeed ur Rehman, R/o Meena Mamund P.O. Tarkho, Tehsil Mamund, District Bajaur Agency	18.01.2019
4.	1115(P)CS/2017	Bacha Muhammad, Ex-Sepoy S/o Gul Muhammad, R/o Gang, P.O. Khar, Tehsil Khar, District Bajaur Agency.	3.10.2017
5.	1221(P)CS/2017	Muhammad Yar, Ex-Sepoy, R/o P.O. Raghagan, Odigerum, Salarzai, District Bajaur Agency.	6.12.2017
6.	802(P)CS/2018	Shireen, Havaladar, S/o Parinda Khan R/o Jashai P.O. Khar, Tehsil Salarzai, District Bajaur Agency.	15.05.2018
7.	85(P)CS/2019	Saur Khan, Ex-Sepoy, S/o Chamini Khan, R/o Mano Dherai, P.O. Gharday Tehsil Utman Yhel, District Bajaur Agency.	18.01.2019
8.	86(P)CS/2019	Jamil ud Din, Ex-Sepoy, S/o Manawar, R/o Odigram, P.O. Raghagan, Tehsil Salarzai, District Bajaur Agency.	18.01.2019
9.	93(P)CS/2019	Ummeid Rehman S/o Wali Muhammad, Ex-Khasadar, R/o Lagha Post Office Annayat Kalay, Tehsil Memond, District Bajaur Agency.	07.02.2019.
10.	94(P)CS/2019	Mudcer Khan S/o Muhammad Noor, Ex-Sepoy R/o Lagha Post Office Annayat Kalay, Tehsil Memond, District Bajaur Agency	07.02.2019.
11.	95(P)CS/2019	Atalul Azim Jan, Ex-Khasadar, Reg. # 1700, Bajaur Levies	07.02.2019
12.	204(P)CS/2019	Hayyat Khan S/o Mian Gul Jan Ex-Khasadar, R/o Gaga Post Office Tehsil Mamond, District Bajaur Agency.	21.03.2019
13.	1008(P)CS/2018	Ahaz Muhammad, Ex-Sepoy, S/o Sher Muhammad R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
14.	1010(P)CS/2018	Muhammadi Khan, Ex-Sepoy, S/o Muhammad Ahaz, R/o Tarkho P.O. Khar, Tehsil Barang, Ex-Sepoy, District Bajaur Agency, District Bajaur Agency.	08.06.2018
15.	1011(P)CS/2018	Fus Khan, Ex-Sepoy, S/o Ahwan, R/o Khat Kot P.O. Tarkho Tehsil Barang, District Bajaur Agency.	08.06.2018
16.	1019(P)CS/2018	Abdul Rehman, Ex-Sepoy, S/o Nadir Khan, R/o Bati Khar, District Bajaur Agency.	08.06.2018
17.	1022(P)CS/2018	Muhammadi, Ex-Sepoy, S/o Murad Gul R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

[Handwritten Signature]

[Handwritten Signature]
ATTESTED

[Handwritten Signature]

18.	1023(P)CS/2018	Wazir Khan, Ex-Sepoy, S/o Khial Gul, R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
19.	1024(P)CS/2018	Faiz Khan, Ex-Sepoy, S/o Shehzada S/o Mandal Tehsil Khar, District Bajaur Agency.	08.06.2018
20.	1025(P)CS/2018	Abdul Hadi, Ex-Sepoy, S/o Muhammad Hassan, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
21.	1024(P)CS/2018	Shoukatullah, Ex-Sepoy, S/o Musafir R/o Kai Kot, P.O. Tarkho, District Bajaur Agency.	08.06.2018
22.	1023(P)CS/2018	Sultan Muhammad, Ex-Sepoy, S/o Abdul Ameen, R/o Khar, Tehsil Salarzai, District Bajaur Agency.	08.06.2018
23.	1031(P)CS/2018	Sardar Alam, Ex-Sepoy, S/o Muhammad Alam, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
24.	1031(P)CS/2018	Noor Sim, Ex-Sepoy, S/o Saz Noor R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
25.	1032(P)CS/2018	Wahed Ullah, Ex-Sepoy, S/o Lal Khan, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
26.	1031(P)CS/2018	Qadir Khan, Ex-Sepoy, S/o Hazrat R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
27.	1035(P)CS/2018	Niaz Muhammad, Ex-Sepoy, S/o Taj Muhammad Said, R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
28.	1036(P)CS/2018	Gul Bar Gul, Ex-Sepoy, S/o Alam, Khail R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
29.	1037(P)CS/2018	Muhammad, Ex-Sepoy, S/o Ibrahim Khan R/o Dabar - Burwadin, P.O. Mastu, Salarzai, District Bajaur Agency.	08.06.2018
30.	1038(P)CS/2018	Asmad Yar, Ex-Sepoy, S/o Syed Akbar Khan, R/o Tarkho P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
31.	1042(P)CS/2018	Noor Muhammad, Ex-Sepoy, S/o Niaz Muhammad, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
32.	1043(P)CS/2018	Naseeb Shah, Ex-Sepoy, S/o Gul Said, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
33.	1044(P)CS/2018	Anwar Ex-Sepoy, S/o Chaman R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency.	08.06.2018
34.	1088(P)CS/2018	Fazal Ameen, Ex-Sepoy, S/o Musharaf, R/o Sadiq Akbar Paktak, P.O. Khar, District Bajaur Agency.	10.07.2018
35.	1349(P)CS/2018	Siraj ud Din, Ex-Sepoy, S/o Aslak Toor Khan R/o P.O. Khar, Tehsil Salarzai, District Bajaur Agency.	16.08.2018
36.	1350(P)CS/2018	Muhammad Zada, Ex-Sepoy, S/o Lajbar, R/o Khar Kano, P.O. Khar, Tehsil Salarzai, District Bajaur Agency.	16.08.2018
37.	1351(P)CS/2018	Gul Zada, Ex-Sepoy, S/o Pachay, R/o Hayat el-Skandaro, P.O. Karaca, Tehsil Ulmanikhel, District Bajaur Agency.	16.08.2018
38.	1377(P)CS/2019	Nisar Khan Ex-Sepoy, S/o Nisar Khan R/o	23.04.2019

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

		Mano Dheri, P.O. Gardai, Tehsil Uman Khet, merged District Bajaur Agency	
39.	781(PYCS/2017 with MP	Abdullah Jan, Naib Subedar, R/o Reedo Shah Gai, Yusuf Akad, P.O. Khar, Reedo Shah Gai, Tehsil Khar, District Bajaur Agency	26.05.2017
40.	742(PYCS/2018	Abdullah Jan, Ex-Naib Subedar, S/o Bakhtiar, Reedo Shah Gai, Yusuf Akad, P.O. Khar, Reedo Shah Gai, Tehsil Khar, District Bajaur Agency	18.04.2018
41.	743(PYCS/2018	Munajib Khan, Ex-Naib Subedar, R/o Mir Afzal Labour Colony C/o Asar Khan S/o Mashooq Khan, Quarter No. 10, District Mardan	18.04.2018
42.	744(PYCS/2018	Jan Alam, Ex-Naib Subedar, R/o Mir Afzal Labour Colony C/o Asar Khan S/o Mashooq Khan, Quarter No. 10, District Mardan	18.04.2018
43.	1441(PYCS/2018	Kehmat Gul, Ex-Subedar Maj. S/o Hameed Gul R/o P/o Khar Sha Narai, Tehsil Khar District Bajaur Agency	19.10.2018
44.	527(PYCS/2016	Nasem Khan, Ex-Sepoy, S/o Akbar Khan R/o Muharram Ghundai, P.O. Khar, Tehsil Khar, District Bajaur Agency	11.08.2016
45.	346(PYCS/2016	Mohammad, Younas, Ex-Sepoy, R/o Monallah Eid Gah, Tehsil Khar, District Bajaur Agency	26.08.2016
46.	857(PYCS/2018	Muhammad Shah, Ex-Sepoy, S/o Zamin, R/o Ghar Shemozai Har Qalangi Sher Batai, Tehsil Barang, District Bajaur Agency	11.05.2018
47.	858(PYCS/2018	Saeed Gul, Ex-Sepoy S/o Ajab Gul, R/o Sher Batai, P.O. Qalangi, Tehsil Barang, District Bajaur Agency	11.05.2018
48.	974(PYCS/2018	Muhammad, Ex-Sepoy, S/o Iltis Gul, R/o Tarkho, P.O. Khar, Tehsil Barang, District Bajaur Agency	25.05.2018
49.	975(PYCS/2018	Abdul Haq, Ex-Sepoy, S/o Rofai Khan R/o Muslim Bagh, P.O. Inayat Kalay, District Bajaur Agency	25.05.2018
50.	976(PYCS/2018	Wahed Ullah, Ex-Sepoy, S/o Gul Nazir, R/o Shah Saray P. O. Pashai, Salazar, District Bajaur Agency	25.05.2018
51.	980(PYCS/2018	Muhammad Jamshed, Ex-Sepoy, S/o Muhammad Shah, R/o Garodi, P.O. Garodi, District Bajaur Agency	25.05.2018
52.	1409(PYCS/2018	M. Farooq, Ex-Sepoy, R/o Ladaee Tarkho, Tehsil Mamon, District Bajaur Agency	28.09.2018
53.	1410(PYCS/2018	Shah Hussain, Ex-Sepoy, Reg # 5155, District Bajaur Agency	28.09.2018
54.	1411(PYCS/2018	Ikram S/o Syed Ahmad, Ex-Sepoy, R/o Ladaee Tarkho, Tehsil Mamon, District Bajaur Agency	28.09.2018
55.	1412(PYCS/2018	Abdullah Ex-Sepoy, R/o Village Shanki Tehsil Khar, District Bajaur Agency	28.09.2018
56.	1411(PYCS/2018	Shahzad ur Rehman, Ex-Assistant/Reader, S/o Haji Kehmat Karim R/o Dir, Kass, P.O. Dir, Dir Town, Tehsil Dir, Upper Dir.	19.10.2018
57.	1503(PYCS/2018	Laiq Kehman, Ex-Lvy Sepoy, R/o Village Koi Tehsil Bakhela District Mardan	14.11.2018
58.	877(PYCS/2017	Feroz S/o Muhammad Shah, Ex-Sepoy R/o Hital Khail Chirmang, Tehsil Nawagai,	21.06.2017

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

25/11/2017

Bajaur Agency			
59	573(PXCS/2017)	Aziz Ullah S/o Gul Zaman, Sepoy, C/o Fazal Haq R/o Khar, Tehsil Khar, Bajaur Agency	21.06.2017
60	574(PXCS/2017)	Fazal Haq S/o Muhammad Hakeem, Sepoy, R/o Khar, Tehsil Khar Bajaur Agency.	21.06.2017
61	580(PXCS/2017)	Buman S/o Gul Zaman, Sepoy, C/o Fazal Haq, R/o Khar, Tehsil Khar, Bajaur Agency.	21.06.2017
62	263(PXCS/2019)	Muhammad Ameen, Ex-Khasadar, R/o Gaga Post Office, Tehsil Mamond, District Bajaur Agency	21.03.2019
63	91(PXCS/2019)	Said Aziz, Sepoy, S/o Saeed Rahim Jan, R/o Aman Kot, District Tribal Bajaur.	04.02.2019
64	178(PXCS/2019)	Liaqat Khan, Ex-Sepoy, s/o Abdullah R/o Dag Qila P.O. Raghian Tehsil Salazarai, District Bajaur Agency	14.02.2019
65	252(PXCS/2019)	Habib Rasool, Ex-Sepoy, S/o Bahri Mulk, R/o Mohallah Boodha Haba Oech, Tehsil Adin Zai & District Dir Lower.	20.03.2019
66	144(PXCS/2019) With MP	Amir Nawab, Subedar, Malakand Levies & Malakand.	03.04.2019
67	531(PXCS/2019)	Sharifullah, Sepoy, R/o Anayat Kalay, Kakah Tehsil Mamond, District Bajaur Agency	08.11.2019
68	532(PXCS/2019)	Khan Alam, Sepoy, R/o P.O. Anayat Kalay, Kakah, Tehsil Mamond District Bajaur Agency.	08.11.2019
69	533(PXCS/2019)	Abdul Qayyum, Sepoy, R/o P.O. Anayat Kalay, Kakah, Tehsil Mamond District Bajaur Agency.	08.11.2019
70	534(PXCS/2019)	Alam Zeer, Sepoy, R/o P.O. Anayat Kalay, Kakah, Tehsil Mamond District Bajaur Agency.	08.11.2019
71	535(PXCS/2019)	Dilawar Khan, Sepoy, R/o P.O. Anayat Kalay, Kakah, Tehsil Mamond District Bajaur Agency.	08.11.2019
72	13(PXCS/2017)	Muhammad Ayaz, Moharrir/Sepoy No.5010, Malakand Levies, District Malakand.	11.01.2017
73	770(PXCS/2019)	Sajjad Ali, Sepoy, S/o Ghulam Jan, Village Kulala, P/o Gardai Tehsil Aman Kot, Tribal Bajaur District	

Misc. Petition for implementation

74	MP No. 220/2018 1106(PXCS/2017)	Nasirman S/o Fatch Mul Khan R/o Village Qazafi, Bandagai Marano Sira, Tehsil Utmankhel, District Bajaur Agency	16.02.2018
75	MP No. 221/2018 1116(PXCS/2017)	Nawab Zada S/o Nadir Khan R/o Shinkay Utmankhel, Tehsil Utmankhel, District Bajaur Agency	16.02.2018
76	MP No. 244/2018 591(PXCS/2015)	Ismail S/o Imtiaz Jan, Ex-Sepoy, R/o Badi Samar, P.O. Anayat Kalay, District Bajaur Agency	28.12.2018
77	MP No. 247/2018 38(PXCS/2016)	Fizza Malik Ex-Sepoy S/o Ghulam Rabani, R/o Kaga Lendi, Tehsil Mamond District Bajaur Agency	28.12.2018
78	MP No. 207/2018 19(PXCS/2014)	Hameed Ullah S/o Muzammil Khan Ex-Sepoy, R/o Alizo Dag, Tehsil Khar, District Bajaur Agency	13.11.2018
79	MP No. 209/2018	Muhamad Khan, Ex-Sepoy, S/o Rahnai	14.11.2018

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

ATTESTED

	348(PXCS/2014	Khan R/o Qillah Ali Jan Tehsil Khar, District Bajaur Agency	
80.	MP No. 342/2018 1117(PXCS/2017	Fazal i Wahid R/o Khar, Tehsil Nawagai, District Bajaur Agency	21.02.2018
81.	MP No. 343/2018 1119(PXCS/2017	Bacha Rehman S/o Abdul Saied R/o Madil, Dianza P.O. Khar, District Bajaur Agency	21.02.2018
82.	MP No. 344/2018 1120(PXCS/2017	Mansoor Ahmed S/o Said Muneer R/o Barani Kandaro P.O. Khar Tehsil Khar, District Bajaur Agency	21.02.2018
83.	MP No. 345/2018 1121(PXCS/2017	Nisar Khan S/o Khan Bachai R/o Salarzai, Koi P.O. Raghlan Tehsil Khar, District Bajaur Agency	21.02.2018
84.	MP No. 346/2018 1122(PXCS/2017	Bacha Rehman S/o Muhammad Yousof R/o, Mandal Dianga, P.O. Khar, Tehsil Khar, District Bajaur Agency	21.02.2018
85.	MP No. 347/2018 1123(PXCS/2017	Amin Ullah S/o Din Muhammad R/o Moinand, Tehsil Salarzai District Bajaur Agency	21.02.2018
86.	MP No. 348/2018 1125(PXCS/2017	Gulab Khan S/o Razi Khan, R/o Village Dajigm, Tehsil Salarzai, District Bajaur Agency	21.02.2018
87.	MP No. 349/2018 1126(PXCS/2017	Alif Khan S/o Sharif Khan R/o Village Siya Baran, Tehsil Barang, District Bajaur Agency	21.02.2018
88.	MP No. 350/2018 1127(PXCS/2017	Yar Muhammad S/o Ali Muhammad R/o Village Haryan Kot, Tehsil Barang, District Bajaur Agency	21.02.2018
89.	MP No. 351/2018 1128(PXCS/2017	Faiz Ullah S/o Zuhair Khan R/o Village Khar Tehsil Khar, District Bajaur Agency	21.02.2018
90.	MP No. 352/2018 1129(PXCS/2017	Amir Badshah S/o Shah Zaid Mir, R/o Village Takht Barang, Tehsil Khar, District Bajaur Agency	21.02.2018
91.	MP No. 353/2018 1130(PXCS/2017	Ahmad Hakim S/o Ahmed Jan R/o Village Mano Dierai, Tehsil Umankehel, District Bajaur Agency	21.02.2018
92.	MP No. 354/2018 1131(PXCS/2017	Muhammad Zada S/o Ali Muhammad R/o Village Shinko, Tehsil Umankehel, District Bajaur Agency	21.02.2018
93.	MP No. 355/2018 1132(PXCS/2017	Ahmad Yousof S/o Abdul Wakeel Khan R/o P.O. Khar, Tehsil Khar, District Bajaur Agency	21.02.2018
94.	MP No. 356/2018 1133(PXCS/2017	Riswan Ullah S/o Gul Nabil, R/o Ali Zo Dag, Tehsil Khar, District Bajaur Agency	21.02.2018
95.	MP No. 357/2018 1134(PXCS/2017	Abdul Wakeel S/o Sultan Muhammad R/o Ali Zo, P.O. & Tehsil Khar, District Bajaur Agency	21.02.2018
96.	MP No. 358/2018 1135(PXCS/2017	Israr Khan S/o Nowsherwan R/o Shenky, Ali Zai, Tehsil Khar, District Bajaur Agency	21.02.2018
97.	MP No. 359/2018 1136(PXCS/2017	Asmat Khan S/o Bakht Zareen R/o Sara Cheena Tehsil Khar, District Bajaur Agency	21.02.2018
98.	MP No. 2144/2016 340(PXCS/2014	Shoaib S/o Gulab Karim, Ex-Sepoy, R/o Kot Kay Tehsil Salarzai, District Bajaur Agency	04.11.2016
99.	MP No. 352/2017 211(PXCS/2014	Ghulam Qadir S/o Kalan Khan, Ex-Sepoy, R/o Adlay P.O. Raghlan, Tehsil Salarzai, District Bajaur Agency	10.02.2017
100.	MP No. 353/2017 301(PXCS/2014	Anwar Zeh S/o Said Karim, Ex-Sepoy, R/o Qamar Dag, Tehsil Khar, District Bajaur Agency	17.11.2014

ATTESTED
Registrar
Federal Service Tribunal
Islamabad

ATTESTED

101.	MP No. 334/2017 312(PXCS/2014)	Sahib Zada S/o Madali Jan, Ex-Sepoy, R/o Islam Dshri, Utman Khil, District Bajaur Agency	0.02.2017
102.	MP No. 1017/2017 584(PXCS/2015)	Hussain Badshah, Ex-Sepoy, S/o Amir Nawab, R/o Dag Qila P.O Khar, District Bajaur Agency.	17.04.2017
103.	MP No. 235/2017 635(PXCS/2015)	Hafiz ur Rehman, Ex-Sepoy, S/o Shams ur Rehman R/o Khar P.O. Khar, District Bajaur Agency.	06.04.2017
104.	MP No. 926/2017 104(PXCS/2016)	Firdous Khan, Ex-Sepoy, S/o Zafar Muhammad, R/o Guman, Kot, P.O. Khar, Tehsil Barang, District Bajaur Agency.	06.04.2017
105.	MP No. 937/2017 14(PXCS/2016)	Muhammad Sarwar Khan, Ex-Sepoy, S/o Naik Muhammad R/o Red Soli Khar Tehsil Salarzai, District Bajaur Agency.	06.04.2017
106.	MP No. 239/2017 24(PXCS/2016)	Suleman Khan, Ex-Sepoy, S/o Muhammad Gul R/o Skandaro Tehsil Utman Khil, District Bajaur Agency.	06.04.2017
107.	MP No. 236/2017 24(PXCS/2016)	Sarwar Ex-Sepoy, S/o Ameer Gul, R/o Quimber P.O. Khar, Tehsil Barang, District Bajaur Agency	06.04.2017
108.	MP No. 3112/2017 27(PXCS/2014)	Hawab Khan S/o Gul Qayum Ex-Sepoy, R/o Nogay Tehsil Khar, District Bajaur Agency	19.11.2018

Review Petitions.

109.	RP No. 78/2019 711(PXCS/2017)	Asghar Khan, Sepoy, Tehsil Khar, District Bajaur Agency.	19.06.2019
110.	RP No. 83/2019 720(PXCS/2017)	Umer Ayub, Sepoy, Tehsil Khar, District Bajaur Agency.	28.06.2019
111.	RP No. 85/2019 721(PXCS/2017)	Imran, Sepoy, Tehsil Khar, District Bajaur Agency.	28.06.2019
112.	RP No. 86/2019 722(PXCS/2017)	Nowshad, Sepoy, Tehsil Khar, District Bajaur Agency.	28.06.2019
113.	RP No. 87/2019 723(PXCS/2017)	Noor Zada, Sepoy, Tehsil Chum, Khar, District Bajaur Agency.	28.06.2019
114.	RP No. 88/2019 724(PXCS/2017)	Ghulam Younis, Sepoy, Sadujabad, Tehsil Khar, District Bajaur Agency.	28.06.2019
115.	RP No. 89/2019 725(PXCS/2017)	Najeeb Ullah, P.O. Sepoy Annayat, Karkoor Tehsil Mornand, Bajaur Agency.	28.06.2019
116.	RP No. 90/2019 726(PXCS/2017)	Shams ur Rehman, Sepoy Annayat, Karkoor Tehsil Mornand, Bajaur Agency.	28.06.2019
117.	RP No. 91/2019 760(PXCS/2017)	Saeed Habib Jan, R. No. 4322, Sepoy, Bajaur levies, Bajaur Agency Khar.	28.06.2019
118.	RP No. 92/2019 761(PXCS/2017)	Abdullah R. No. 3413, Sepoy, Bajaur levies, Bajaur Agency Khar.	28.06.2019
119.	RP No. 93/2019 762(PXCS/2017)	Mozamim, R. No. 4334, Sepoy, Bajaur levies, Bajaur Agency Khar.	28.06.2019
120.	RP No. 94/2019 763(PXCS/2017)	Saeed Ullah, R. No. 4279, Sepoy, Bajaur levies, Bajaur Agency Khar.	28.06.2019
121.	RP No. 95/2019 764(PXCS/2017)	Imran, R. No. 4769, Sepoy, Bajaur levies, Bajaur Agency Khar.	28.06.2019
122.	RP No. 96/2019 765(PXCS/2017)	M. Ayub, R. No. 5806, Sepoy, Bajaur levies, Bajaur Agency Khar.	28.06.2019
123.	RP No. 97/2019 767(PXCS/2017)	Faizullah, R. No. 4366, Sepoy, Bajaur levies, Bajaur Agency Khar.	28.06.2019
124.	RP No. 98/2019 768(PXCS/2017)	Imran Ullah, R. No. 4775, Sepoy, Bajaur levies, Bajaur Agency Khar.	28.06.2019

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

125.	R.P. No. 99/2019 776(P)CS/2017	Tilla Muhammad, R. No. 4508, Sepoy, Bajaur Levies, Bajaur Agency Khar	28.06.2019
126.	R.P. No. 100/2019 777(P)CS/2017	Abdul Rahim, R. No. 5383, Sepoy, Bajaur Levies, Bajaur Agency Khar, R/o P.O. Loe Same Sharif Khan Tehsil Nawagai, District Bajaur Agency.	28.06.2019
127.	R.P. No. 101/2019 778(P)CS/2017	Kulud Amin, R. No. 4293, Sepoy, Bajaur Levies, Bajaur Agency Khar, R/o P.O. Loe Same Sharif Khan Tehsil Nawagai, District Bajaur Agency.	28.06.2019

Date of Hearing	28.11.2019
Date of Judgement	04.12.2019

-VS-

RESPONDENTS

1. The Secretary, SAFRON, Islamabad.
2. The Additional Chief Secretary, FATA Civil Secretariat (FATA), Warsak Road, Peshawar.
3. The Political Agent/Commandant/Deputy Commissioner Bajaur Levies, District Bajaur at Khar.
4. Mr. Farzed Ullah, Subedar Major (BS-16), Malakand Levies at Malakand.
5. Mr. Mubammad Hussain, N/Subedar, Reg. No. 3164, posted in the office of Political agent/commandant/Deputy Commissioner, Bajaur Levies, District Bajaur at Khar.

PRESENT

Mr. Misbahullah Khan, Rana Samreen Akhtar, Noor Muhammad Khattak, Sardar Saleem Akhtar and Ameer Nasir Kundi, Advocates for the Appellants.
 Ch. Ishfaq Meherban, Deputy Attorney General for the Federation, Mr. Siraj Haider, Legal Coordinator, M/o SAFRON, Mr. Nisar Khan, Asstt. Accounts Officer, District Accounts Office, Malakand and Mr. Sajjad Ahmad, Litigation Clerk, Deputy Commissioner's Office, Bajaur as DRs and Mian Gulzar Hussain, Advocate for Respondent No.4

JUDGEMENTRAJA HASAN ABBAS, MEMBER:-

These appeals and petitions can be categorized into appeals, implementation petitions and review petitions.

2. Appellants are ex-employees of Federal Levies Force. The Competent authority imposed major penalty of dismissal from service in most of the cases on charge of misconduct, whereas in some other cases they were retired. Aggrieved by these orders instant appeals were filed before Federal Service Tribunal which are pending decision. Notices were issued to the respondents i.e. M/o SAFRON, FATA Secretariat through Additional Chief Secretary, FATA and the concerned Political Agent/Commandant.

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

ATTESTED

30

30

30

Comments/objections were received partially and in most of the cases notices were being issued for submission of the same. In the meantime, Federal Government through 25th Constitutional Amendment Act passed in May, 2018 paved the way for merger of FATA in the province of Khyber Pakhtunkhwa. As a result thereof Government of KPK issued Ordinance () of 2019 (later passed as an Act), in order to allow Federal Levies Force to continue their functions and to regulate and maintain them under the administrative control of Government of KPK. The force was renamed as Khyber Pakhtunkhwa Levies Force under Section 3 of the Act, comprising the Director General, the Deputy Director General, Commandant and all existing strength of members of the Levies Force working in the merged Districts and Sub-divisions. Above mentioned Officers would be the Officers from Police. Section 9 of the Act provided for absorption of the members of Federal Levies in the Police. Section 9 (2) stipulates that "until their absorption in the police, the members of the Levies Force shall be governed by their existing terms and conditions of service under Federal Levies Force (Service) Rules, 2012."

3. It is important to refer to a letter from M/o SAFRON dated 24th April, 2019 addressed to Secretary Home & Tribal Area Department, Government of KPK on the subject pertaining to service matters regarding Levies/Khassadars, admitted in Federal Service Tribunal, Islamabad. It is imperative to reproduce para 2-3 of the letter:-

"2. It is stated that consequent to the 25th Constitutional Amendment, the erstwhile PATA and FATA have been merged into the province of Khyber Pakhtunkhwa. Furthermore, on 12th March, 2019 the Government of Khyber Pakhtunkhwa has promulgated two Ordinances whereby the Federal Levy Force and Khassadar Force, stand provincialized. We had already written to the concerned Registrars of Courts and Service Tribunals to delete the name of Secretary, SAFRON from the array of respondents.

3. It is requested that these along with future appeals in connection to the Federal Levy Force and Khassadar Force, may now be addressed at your end while ensuring that reports/comments are submitted to Honorable Federal Service Tribunal, Islamabad on the scheduled date of hearings.

[Handwritten signature]

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

[Handwritten signature]

03

Stamp: REGISTRAR, FEDERAL SERVICE TRIBUNAL, ISLAMABAD

Another Memorandum from M/o SAFRON dated 18th March, 2019 addressed to Chief Secretary, KPK, Advocate General, KPK and Additional Chief Secretary, Merged Areas Secretariat states as under:-

"Now, therefore all the administrative, legal and ancillary matters, including service appeals, promotions and litigation in respect of both the forces i.e. Levies Force and Khasadar Force have been transferred to the Government of Khyber Pakhtunkhwa and its relevant forums from 1st March, 2019, the date of the issuance of above said Ordinance

It is clarified that Ministry of States and Frontier Regions (SAFRON) has ceased to be the controlling authority in respect of Levies Force and Khasadar Force working in erstwhile FATA & PATA. All concerned commandants and others Forums may kindly be informed accordingly.

4. It was in this back drop that we had issued Notices to the learned Attorney General for Pakistan in accordance with Order 27 Rule 1 of CPC to assist the Tribunal with regard to the point of jurisdiction as well as 25th Constitutional Amendment including interpretation of Levies Amendment Rules, 2013. After hearing the learned Deputy Attorney General and counsels of the appellants on 30.07.2019 a detailed order was passed. Relevant portion is reproduced:-

"7. We have carefully considered the arguments. Notwithstanding the submissions made by the learned counsels, fact of the matter is that Government of Pakistan Ministry of States and Frontier region has made a formal request for their deletion from the list of the respondents in all these appeals with a further request that these matters may now be addressed to Secretary, Home and Tribal Areas Department, Government of Khyber Pakhtunkhwa.

8. By operation of the Ordinance supra and 25th Constitutional Amendment, employees of the Federal Levies and Khassadar Force have become provincial Government employees. In several implementation petitions, which are pending at the moment before the Tribunal, provincial Home and Tribal Area Department have been issued notices of appearance, however, they have shown very lukewarm response. This is despite the fact that notices were served through Chief Secretary, KPK. We are cognizant of the fact that Constitutional and legal provisions allow continuation of proceedings before the Tribunal, however, we are concerned

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

ATTESTED

32

~~32~~

~~32~~

about the practical aspects of the issue. Since the petitioners have become provincial Government employees, no proceedings can move unless the respondent Provincial Government discharges its legal responsibilities.

9. It is therefore, imperative and prudent to direct Secretary Ministry of States and Frontier Region to depute an officer not below the rank of J.S. to appear and assist the Tribunal in the matter.

10. Chief Secretary KPK Government is required to direct Secretary Home and Tribal Areas Department to depute an officer not below the rank of Additional Secretary (BS-19) to appear in the pending proceedings before the Tribunal.

11. Advocate General KPK is directed to depute a law officer to appear and assist the Tribunal in the matter on the next date.

5. Since then Provincial Government of KPK has been represented twice by learned Assistant Advocate General. He was not present today nor on 18.11.2019. We have not received any written statement on behalf of Government of KPK since 30.07.2019 despite clear direction vide order dated 18.11.2019.

6. Today we have heard learned Counsels of the appellants who are also present in large number. Learned Counsels of the appellants stated that the appellants are poor low paid employees. Since their dismissal in 2007-2008, they have been running from pillar to post forgetting justice. The constitutional amendment and subsequent legislation has further complicated matters for them. However, the Tribunal is still vested with the jurisdiction as already determined vide order dated 30.07.2019 and the appeals may be decided on merits of each case.

7. We are conscious of the fact that the appellants are facing hardship on account of prolonged judicial proceedings. It is however, more dismaying that the respective provincial authorities are not paying due attention to these matters, pending before us. There is an attitude of indifference towards these proceedings. We are afraid even if the pending issues are decided on merit, their implementation would be still more complicated as is the case even now. No meaningful proceedings can take place in the absence of a positive response from Government of Khyber Pakhtunkhwa.

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

[Handwritten Signature]

[Handwritten Mark]

ATTESTED

[Handwritten Signature]

We have apprised the learned Counsels of the practical aspects/difficulties and with their consent remand all the pending appeals to the respective competent authority to treat them as pending departmental appeals and decide them afresh after giving the appellants opportunity of personal hearing. These appeals are disposed of in the above terms.

Misc. Petition Nos. 320, 321, 2488, 2487, 2098, 2099/2018, 42 to 359/2017, 2144/2016, 352 to 354, 1017, 935 to 937, 934, 938/2017, 2118/2018

in
Appeal No. 1106, 1116(P)CS/2017, 591(P)CS/2015, 38(P)CS/2016, 19, 148(P)CS/2014, 1117, 1119, 1120 to 1123, 1125 to 1136(P)CS/2017, 340, 211, 304, 312(P)CS/2014, 584, 635, 10, 14, 24, 27(P)CS/2016 & 27(P)CS/2014

Above Misc. Petitions were filed seeking implementation of judgement dated 11.05.2015 and 30.10.2017. Whereas vide order dated 30.10.2017 direction were given for deciding pending departmental appeals, vide judgement dated 11.05.2015 directions were given for reinstatement of the appellants. However, for the question of back benefits it was directed to decide the same in accordance with instructions contained in Sl. No. 155 of ESTACODE (Edition 2007 Volume-III). The Petitioner have been reinstated, however, through these petitions the issue of implementation of the order for determination of back benefits was raised. The respondents, despite repeated notices failed to respond and provide the latest status about implementation of the judgement.

10. These petitions are also remanded to the competent authority for implementation in the light of the direction of the Tribunal in Judgements dated 11.05.2015 and order dated 30.10.2017. A compliance report be furnished to the Registrar of the Federal Service Tribunal by first week of February, 2020. The petitions stand disposed of

ATTESTED

Registrar
Federal Service Tribunal
Islamabad

11/02/2020

Review Petition Nos. 78, 84 to 101/2019

34

(scribbles)

in Appeal No. 711, 720 to 726, 760 to 764, 766 to 768, 776 to 778 (PCS/2019)

This brings us to the above titled review petitions which were disposed of vide order dated 20.05.2019.

12. It is contended that the appellants were given to understand that with the promulgation of 25th Amendment, Federal Service Tribunal had been divested of jurisdiction. The provincial authorities were not inclined to listen to their grievances and it would be travesty of justice if they are left without any forum to seek justice.

13. Strictly legally speaking the petition could not be entertained because of the limitation of scope of review. However, keeping in view the facts that finer legal aspects of the issues arising out of the merger of tribal areas and their administrative setup in KPK were beyond their comprehension and they might not have got the necessary assistance to pursue their appeals, we are inclined to accept these review petitions. As a result thereof the appeals are restored to their original numbers. The directions in para 8 of the judgement would apply mutatis mutandis in these appeals also.

14. Copies of the orders be sent to Chief Secretary KPK, Secretary, Home KPK, Commandant Levies Force, KPK for ensuring implementation of the judgment and submission of a report within three months to Registrar of the Federal Service Tribunal. Copy of the judgment be also sent to Secretary, M/o SAFRON and Secretary, Establishment Division.

15. No order as to costs. Parties will be informed.

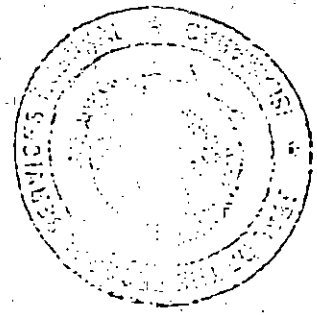
[Signature]
MEMBER
[Signature]
CHAIRMAN

Catzen
04.12.2019

(scribble)

RECEIVED
11-12-2019
11-12-2019
11-12-2019
[Handwritten notes and signatures]

CERTIFIED TRUE COPY
[Signature]
Registrar
Federal Service Tribunal
Islamabad



[Handwritten mark]

To

THE HONOURABLE SECRETARY,
Home Department, Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

ANNEXURE - 9

35

Subject:

APPLICATION FOR DECIDING SERVICE APPEAL AS THE
APPLICANT AS PER FEDERAL SERVICE TRIBUNAL
DECISION DATED 04-12-2019 WITHIN THE STATUTORY
PERIOD OF 60 DAYS

R/Sir,

Most respectfully, it is stated that I am working as Subedar (BPS-14) under the control of Deputy Commissioner Malakand Levies. I am the most senior Subedar amongst my colleagues in the rank of Subedar as per seniority list, but unfortunately One Mr. Fareed Ullah who was at Serial No. 6 of the Seniority list were given out of turn promotion to the rank of Subedar Mejor (BPS-16) against which I filed Service Appeal No. 344 (P) CS/2019 before the Federal Service Tribunal which was fixed for maintainability on 28/11/2019. The honourable bench at Federal Service Tribunal Islamabad, after hearing the argument of Provincial Government as well as from Federal Government remanded all the pending cases to their concerned Department to treat Service Appeal as Departmental Appeal and deciding the same.

(Copy of the judgment dated 04-12-2019 is attached as Flag-A)

It is, therefore requested that judgment dated 04-12-2019 may be implemented and decide the appeal of the applicant within the statutory period of 60 days.

I shall be very thankful to you.

(Copy of the Service Appeal is attached as Flag-

Obediently Yours,

Amir Nawab

Amir Nawab
(SUBEDAR),
Malakand Levies at Malakand
0346-9330225

ATTACHED



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIR DEPARTMENT

No. SO (Police-II)/HD/6-268/019
Dated Peshawar the 14.01.2020

ANNEXURE - 1

36

To

1. The Registrar,
Federal Service Tribunal, Islamabad.
2. The Deputy Commissioner/Commandant,
Malakand, Levies Malakand.

Subject: APPLICATION FOR DECIDING SERVICE APPEAL OF THE
APPLICANT AS PER FEDERAL SERVICE TRIBUNAL DECISION
DATED 04-12-2019 WITHIN THE STATUTORY PERIOD OF 60 DAYS

Dear Sir,

I am directed to refer to the subject noted above and to state that the subject appellant namely Mr. Amir Nawab Subedar Malakand levies was heard person and it was decided that the subject appeal being devoid of merit, may filed, please.

Yours Faithfully,

Encls as Above

Encls: No & date of even
Copy forwarded to:-

Section Officer (Police-II)
Ph No: 091-9210503 Fax No. 9210503

1. PS to Secretary Home & TA's Department.
2. The appellant for information, please.

ATTACHED

ANNEXURE

Bill No 67

A
Bill

to regulate and maintain the Khasadar Force previously working in the erstwhile Federally Administered Tribal Areas and now in the merged districts of the Province of the Khyber Pakhtunkhwa.

WHEREAS after Constitution (Twenty-fifth Amendment) Act, 2018 (Act No. XXXVII of 2018), the erstwhile Federally Administered Tribal Areas were merged in the Province of the Khyber Pakhtunkhwa, and the special provisions for the governance system in the said areas were omitted through said amendment, leading to the extension of the executive authority of the Province of the Khyber Pakhtunkhwa to the said areas;

AND WHEREAS the Khasadar Force, which was established in the erstwhile Federally Administered Tribal Areas through Executive Orders and instructions, for management of the said areas within the framework of territorial and collective responsibility, has now lost their legal status, for working in the merged districts and sub-divisions;

AND WHEREAS it is in public interest to allow the Khasadar Force to continue their functions for better public order, peace and security in the merged districts and sub-divisions and to achieve the objectives, it is expedient to give legal status to the Khasadar Force in the merged districts and sub-divisions, and to revisit their institutional structure and functional assignment for effective discipline, better performance and optimal utility;

It is hereby enacted as follows:

1. Short title, application, extent and commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Khasadar Force Act, 2019.

(2) It shall apply to all the members of the Khasadar Force.

(3) It shall extend to the districts and sub-divisions of the Province of Khyber Pakhtunkhwa as enlisted in the Schedule.

(4) It shall come into force at once.

2. Definitions.—In this Act, unless the context otherwise requires—

Scanned by CamScanner

(d) "District Police Officer" means Head of the Police, under section 21 of the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. 11 of 2017);

(e) "Government" means the Government of the Khyber Pakhtunkhwa;

(f) "Khasadar Force" means the Khasadar Force, constituted through executive orders, for the erstwhile Federally Administered Tribal Areas and now re-constituted and maintained by Government under section 3 of this Act;

(g) "prescribed" means prescribed by rules;

(h) "public agency" means any department of Government, attached department, public authority, commission or autonomous body, setup under any statutory instrument, or public sector company or body corporate, owned, controlled or financed by Government;

(i) "rules" mean rules made under this Act; and

(j) "Schedule" means Schedule appended to this Act.

3. **Re-constitution, regulation and maintenance of the Khasadar Force.**—(1) On commencement of this Act, the Khasadar Force, shall be re-constituted, regulated and maintained by Government in accordance with the provisions of this Act and shall be known as the Khyber Pakhtunkhwa Khasadar Force, consisting of all existing strength of its members.

(2) The Khasadar Force shall be organized in senior ranks and junior ranks officers and officials.

(3) The senior rank officer shall consist of Commandant, who shall be District Police Officer, having additional charge of the Commandant in the district, while the junior ranks shall consist of the following:

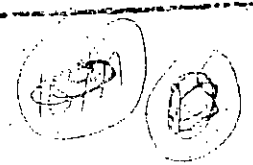
- (a) Subedar Major;
- (b) Subedar;
- (c) Naib Subedar;
- (d) Havaldar; and
- (e) Khasadar.

4. **Superintendence, administration and control of the Khasadar Force.**—(1) The overall power of superintendence of the Khasadar Force shall vest in Government.

(2) The general administration and operational control of the Khasadar Force shall vest with the Commandant in the district.

5. **Method of recruitment.**—Subject to other provisions of this Act, recruitment in the Khasadar Force shall be made in the prescribed manner.

Assistant Commissioner
Government of Khyber Pakhtunkhwa
Law Department



38

6. Powers and duties of the Khasadar Force.—(1) Notwithstanding anything contained in any other law for the time being in force, the Khasadar Force shall have parallel policing powers as are assigned to the police under the Code.

(2) Without prejudice to the generality of the foregoing policing powers under sub-section (1), the Khasadar Force shall perform such institutional or organizational functions and duties as are provided in the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. 11 of 2017).

7. Postings, transfers and distribution of the Khasadar Force.—(1) The Commandant shall be the authority for posting and transfer of members of the Khasadar Force within the district.

(2) Subject to the decision of the Department, a sufficient number of members of the Force shall be placed at the disposal of the District Administration for performing its legally mandated functions.

8. Liability of Khasadar Force.—It shall be the duty of every member of the Khasadar Force to obey and execute all lawful orders and instructions, issued to him by the Commandant.

9. Assistance and support to Government functionaries.—On the requisition of the District Administration, the Commandant shall provide assistance and support to the District Administration and Heads of all public agencies in the district, required for performing their official duties.

10. Power to make rules.—Government may make rules for carrying out the purposes of this Act.

11. Act to override other laws.—The provisions of this Act shall have overriding effect, notwithstanding anything contained in any other law, on the subject, for the time being in force.

12. Actions taken in good faith.—No suit, prosecution or other legal proceedings shall lie against Government, any authority exercising powers under this Act or any member of the Khasadar Force for anything done in good faith under this Act or any rule made thereunder or matters specified in pursuance of this Act.

Explanation: The phrase "good faith" shall have the same meaning as given to it in section 52 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

13. Removal of difficulty.—(1) If any difficulty arises in giving effect to any of the provisions of this Act, the Department may notify a committee to take a decision, not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing the difficulty.

(2) Save as otherwise specifically provided, nothing in this Act, or any repeal effected thereby shall affect or be deemed to affect—

(a) the existing terms and conditions of service of the Khasadar Force unless amended through a substitute rule or

Asstt. Commr. District
Khyber Pakhtunkhwa
Law Department

[Handwritten mark]

(92)

(97)

(98)

Commencement of this Act and not inconsistent with any of the provisions of this Act, shall continue to be in force, and have effect as if it were respectively done, taken, commenced, issued, made, directed, given, executed or issued under this Act; and.

(c) anything done, action taken, rule made or notification or orders issued under the Khyber Pakhtunkhwa Khasadar Force Ordinance, 2019 (Khyber Pakhtunkhwa Ord. No. IV of 2019) shall be deemed valid and the same shall not be called in question in any Court of law.

14. **Repeal.**— The Khyber Pakhtunkhwa Khasadar Force Ordinance, 2019 (KP Ord. No. IV of 2019) is hereby repealed.

SCHEDULE
(see section 1(3))

Part-A

S No.	District.
1.	Hajaur
2.	Molamand
3.	Khyber
4.	Orakzai
5.	Kurram
6.	South Waziristan
7.	North Waziristan

Part-B

S No.	Sub-Division.
1.	Hasan Khel in district Peshawar.
2.	Derra Aalam Khel in district Kohat.
3.	Bettani in district Lakki Marwat.
4.	Wazir in district Bannu.
5.	Jundola in district Tank.
6.	Darazinda in district Dera Ismail Khan.

Assist. Secy Transfer
Govt. of Khyber Pakhtunkhwa
Law Department

STATEMENT OF OBJECTS AND REASONS

It is desirable to regulate and maintain the Khasadar Force, previously working in the erstwhile Federally Administered Tribal Areas, and now in the merged districts of the Province of the Khyber Pakhtunkhwa. Hence, this Bill.